

# Act One

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Adoption in Child Time, Inc.

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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 PERMANENCY 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'S FOSTER PARENT JOURNAL GOES NATIONAL NEW PUBLICATION GETS WARM WELCOME FROM USERS

ACT has published a 2005 foster parent journal for Indiana foster parents. This publication provides convenient space to make an entry each day on the events in the life of a foster child. The journal includes an article by ACT executive director Peter Kenny on how to keep a journal as well as information on federal and Indiana issues affecting foster parents.

Copies of the journal were distributed to foster parents attending the Indiana Foster Care and Adoption Association (IFCAA) meeting in Indianapolis in November.

The foster parent journal was also advertised on the back page of the last two issues of *Fostering Families Today*. Such publicity resulted in e-mails from around the country demonstrating wide interest in such a publication.

Responding to the widespread interest, ACT is preparing a national edition for 2006. The 2006 journal will include a practical appendix with helpful information on such important topics as

keeping a journal, the rights of foster parents and foster children, the federal adoption law, dealing with allegations, getting along with your caseworker, discipline, resources, a legal definition of bonding, and federal subsidies available to foster and adoptive parents.



ACT estimates that the 2006 journal will sell for \$7.95 per copy with significant price reductions for orders over 50. Agencies that purchase the journal in bulk may design their own front page and add their own specific information to the journal for a minimal additional charge.

A journal has many uses and is almost imperative in advocating for our children in care. Information which is written, dated, and entered on the day an event occurred is compelling evidence in court and protection for both foster parents and foster children. The journal can play a key role in documenting bonding in a disputed adoption.

For further information on the 2005 or 2006 journal contact ACT by regular or

## ACT BOARD MEETS, SELECTS NEW MEMBER

Developing a national edition of the foster parent journal, promoting the journal nationally, gaining input to the new Indiana Department of Child Services, improving our web site, and distributing ACT ONE electronically were topics that occupied the ACT board during their January meeting in Indianapolis.

Bonnie Huxford, Ph.D., a clinical psychologist who practices in Anderson and Newcastle, was introduced to the other board members by colleague James Kenny as an expert on the definition of bonding and the serious consequences of its interruption.

The board proposed to promote the following issues to state government: 1) applaud the hiring of new caseworkers and the appointment of Judge Jim Payne to head the new Department of Child Services; 2) demonstrate that foster parents are the state's best bargain; offer suggestions for their recruitment and retention; 3) hold the state accountable to follow the law which requires filing for termination of parental rights by the proper

## *DEALING WITH ALLEGATIONS OF ABUSE*

Foster parents are especially vulnerable to charges of child abuse and neglect. Because of concern for the safety of children, states have relaxed their rules of evidence for documenting allegations. Unfortunately, this has placed professional child care persons such as foster parents in an untenable position. If the abuse is substantiated, they are prevented from ever again holding a job in child care.

Legislators have gone overboard by extending the statute of limitations, increasing criminal penalties, and adopting minimal burdens of proof. At the same time, the person so accused has a very limited ability to clear his or her name from state child abuse registries. Child abuse is considered "indicated" or "substantiated" if a caseworker determines that "credible evidence of abuse or neglect" exists. Too often, this determination is based simply on an interview with the child, a measure far short of the usual standard of "probable cause." This practice is common, despite many studies showing that young children often provide inaccurate information after even mildly leading questioning.

There is hope that this lack of due process will be corrected. In June, 1997, the first class action suit of its kind was filed in the US District Court in Chicago on

behalf of numerous alleged abusers (Dupuy vs. McDonald.) The suit noted that 145,000 Illinois residents were listed on the abuse registry as perpetrators of substantiated abuse, but fewer than five percent of that number had been criminally convicted or civilly charged.

The court ruled in March, 2001, that the core policies used by the Illinois DCFS to register indicated or substantiated reports of child abuse and neglect violated the due process clause of the Fourteenth Amendment. More specifically, the court found that:

1. The DFCS credible evidence standard for indicating child abuse or neglect reports was practically nominal.

2. The hearings to contest indicated findings were unconscionably delayed.

3. DCFS used inadequate notices to inform indicated persons of the findings against them and the means to challenge the findings.

Such inadequate investigation and documentation bears serious consequences both for the accused person and the children who are removed "to be on the safe side." Separation trauma, financial problems, and restrictions on constitutionally protected liberties are involved. Basic fairness dictates that such penalties should not be imposed without due process protection to prevent incorrect findings.

## **Judge James W. Payne Heads Department of Child Services**

Marion County juvenile court judge James W. Payne will become the first head of Indiana's new Department of Child Services. Under the restructuring, child welfare services will be removed from the Family and Social Services Administration (FSSA) to the new Department of Child Services. FSSA will continue to run programs for the elderly, disabled and mentally ill and the Medicaid program.

According to the Indianapolis STAR Judge Payne realizes that underfunding and understaffing constitute two of his first concerns. He also wants better training for child protection workers and will examine the record of a new task force designed to better protect abused and neglected children. Governor Mitch Daniels wants Payne to look at the high number of children taken out of their homes in Indiana.

Judge Payne seems to support ACT's mission: early permanency for children in out-of-home placements. When faced with the comment that a year is a very long time in the life of a child, Judge Payne remarked that, "for a child it's a long time 'til lunch."

The Indianapolis STAR in an editorial endorsing improved efforts in child welfare - "a system that has been broken for far too long" - commented "The task is bound to be frustrating, exhausting and expensive. But no less than the future of thousands of children is at stake. Failure no longer can be accepted."

ACT will continue to insist that the goal of child welfare is timely permanence for every child. Foster care must be temporary. And Indiana must be accountable to upholding the law: a plan for permanence must be in place by the time a child has been

*APPELLATE COURTS CONTINUE TO  
SUPPORT BONDING OVER KINSHIP  
MORE RECENT DECISIONS*

*by Mark Bontrager, Esq. ACT board member*

Last year ACT ONE brought you seven recent appellate court decisions in which bonded relationships took precedence over placement with blood relatives. The decisions continue. Here are three more.

(In the Interest of D.C. 32 Kan. App. 2d962) (2004)

Kansas Appellate court rules a lower court erred, in part, when it discounted an emotional bond between a foster child and her foster parents, which is one factor in the best interests of child. The child was placed with a foster family by the custodial agency and the agency failed to pursue adoptive placement with interested relatives. The foster family and the child's relatives both filed to adopt. Lower court ruled that the agency initially failed in their reasonable efforts to explore adoptive placement with the relatives and, therefore, the trial court ruled in favor of placement with relatives. Appellate court affirmed the lower court ruling that the agency failed in its reasonable efforts; however, the court reversed placement with the relatives until consideration is given to the emotional bond between the child and her foster parents in determining her best interests.

(In re Dependency of J.S. 111 Wa. App. 796) (2002)

Washington Appellate affirms lower court that denied biological parents' preference to have a couple other than the relatives adopt their child. The court reasoned that the best interest of the child was to remain in his placement where he was thriving, not to undergo the *risk of a transition*. The record showed

that the relatives were prepared to adopt the child. They were experienced parents of three children. The child was observed to be happy and healthy in their care and was accepted by all members of their family. At the time of the trial court's decision, the child lived with the relatives for 14 of his 19 months. The trial court did not abuse its discretion by concluding that the relatives were the family to whom the child bonded and that he should have remained in their care.

"Evidence relevant to an adoptive placement decision may include, but is not limited to, the psychological and emotional bonds between the dependent child and its biological parents, its siblings, and its foster family; the potential harm the child may suffer if severed from contact with these persons as a result of a placement decision; the nature of the child's attachment to the person or persons constituting the proposed placement; and the effect of an abrupt and substantial change in the child's environment."

(Fresno County Dept. of Children & Family Services v. Sub..., 122 Cal. App. 4th 626) (2004)

California Appellate court upholds ruling in favor of continuing placement with foster parents over placement with the children's tribe. In spite of the preference for Indian children to be placed with their tribe according to the Indian Child Welfare Act, the court ruled in favor of continued placement with the children's foster parents due to their significant attachment. The court reasoned

**THE ACT  
BOOKSTORE**

*The Right To a Permanent Home: Stopping Foster Care Drift.* (2nd edition) 1998. 52 pages. \$11.50 ppd. The meaning of bonding; case law; DFC policy. For everyone involved in foster care.

*Bonding and the Right To a Permanent Home.* 1999. 16pp. \$4.00 ppd.

*The Indiana Foster Parent Journal 2005.* \$10.00 ppd.

*Adopting a Foster Child.* Available only at ACT seminars.

The following **ACT brochures** are **free** with a business size SASE. Up to four brochures per envelope. Brochures may be copied and distributed. Please credit ACT on all copies. Brochures are also available on our web site.

- ACT Information Brochure.
- Questions and Answers About Adoption by Foster Parents
- The Importance of Bonding in Legal Decisions.
- The Indiana Case Conference Policy.
- The Indiana Cooperative Adoption Law.
- Adoption Subsidies and Tax Issues For Adoptive Parents.
- How To Advocate For Your Foster Child.
- When Foster Parents Need An Attorney
- Who Is My Brother? My Sister? When Siblings Should and Should Not Be Separated

...an emotional bond between a foster child and her foster parents...is one factor in the best interests of [the] child.



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**In This Issue...**

Foster Parent Journal goes national...Judge Payne...appellate courts support bonding

*Who is ACT's Webmaster? by Mary Kenny, Editor*

Whenever ACT needs something done, we turn to people. Money is the last resource on our minds. ACT is short on money, but no matter. ACT is long on talented, dedicated, get-the-job-done people.

When we started our ACT web site ([adoptioninchildtime.org](http://adoptioninchildtime.org)) we followed the same pattern. We turned to Patrick, a 15-year-old high school kid who didn't even take computer in high school. While taking everything else high-schoolers take, he learned computer on his own by reading computer manuals. (Learning computer by reading computer manuals is proof alone that he is a genius.)

We ACT activists provide all the material for our web site. Since its inception Patrick has handled the design, the layout, the links, all the nuts and bolts of running it. He literally puts the stuff we send him on the web. In addition he searches for free providers or for the best buys, occasionally requesting, almost apologetically, the use of a credit card for a modest purchase.

The web site suffered a bit last year as Patrick, now a student at Earlham College, spent last semester studying in Japan. But now he's back and using some of his very limited spare time for our benefit.

How do I know so much about Patrick? I'm proud to report that he's Patrick Kenny, my grandson.