



Grandparents Adopting Grandchildren: The Darlings Are in the Details

Deciding to adopt a child into a family is a serious undertaking; one hopes it will bring great happiness for many years. While adoption laws vary from state to state, the process is always a lengthy one, with the applicant needing to meet many detailed requirements before being qualified to adopt. Among them are:

- Providing a thorough family and social history;
- Being physically and mentally healthy;
- Demonstrating financial stability;
- Showing moral integrity, with no significant criminal background history;
- Demonstrating other factors that the state or agency believes are relevant to the adoption.

At an increased pace, grandparents are petitioning courts to adopt their own grandchildren. This is occurring as result of the incarceration of one or both parents, substance abuse issues the parent(s) are dealing with, or as a consequence of domestic violence. In fact, more than 2.6 million children are living with grandparents, relatives, or close family friends without either of their parents in the home.¹ Approximately 7.6 million children live in households headed by a grandparent or other relative.²

As long as they are not explicitly ruled out as being unsuitable as adoptive parents, many states give priority rights to relatives, including grandparents, to adopt their own relatives. A case in point, *In the Matter of the Welfare of the Children of J.L. et al.*,³ was recently decided in Minnesota.

Following a difficult history when the children's mother and father were



both living with the grandmother, R.S., a district court found that R.S. “was previously unable to protect the children from being exposed to domestic abuse and drug abuse.” However, R.S. was not the subject of, nor a party to, the underlying Child in Need of Protection or Services matter. When R.S. later sought to adopt her grandchildren, the agency that completed the home study noted the “grandmother’s love for her grandchildren and stated grandmother’s strengths were her willingness to uproot her own life and seek outside resources to care for her grandchildren.” But the agency was concerned about R.S.’s “relationship with mother and identified issues grandmother needed to address, including development of a support system, creation of an action plan that protects the children, and outside assistance for

herself.” Accordingly, the children were placed in foster care. When that family eventually sought to adopt the children, the county failed to send a notice of the impending adoption to R.S., believing she had already been ruled out.

In her lawsuit, R.S. raised two issues:

1. Did the district court err in finding that the grandmother was not entitled to notice of the pending adoption because she had been ruled out as a potential placement option?
2. Did the district court err in determining that the grandmother failed to make a prima facie showing of the county’s unreasonableness in failing to place the children in her care?

The relevant statute, 260C.607, subdivision 2(5), states: “[Parties entitled to notice include] relatives of the child

See *Grandparents* on page 39

ELEVATING continued from page 31

available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.

This publication contains general information only and Deloitte is not, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such

professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this publication.

Copyright © 2019 Deloitte Development LLC. All rights reserved.

Reference Notes

1. Indian Health Service Hospital Check-In Redesign, <https://www.youtube.com/watch?v=qFPiNuUJKWc>;
2. Ibid.
3. Shueh, Jason (November 25, 2014). IDEA lab injects entrepreneurial tactics into federal health services. Government Technology, Retrieved from <http://bit.ly/2PBcduo>

GRANDPARENTS continued from page 32

who have kept the court informed of their whereabouts ... and who have responded to the agency's notice ... indicating a willingness to provide an adoptive home for the child unless the relative has been previously ruled out by the court as a suitable ... permanency resource for the child (emphasis added).” The Court of Appeals held that, “Given this ‘relatives first’ consideration, we discern that when the legislature required a relative to be ruled out by the court, it intended that ruling to be explicit. To permit implicit conclusions based on other proceedings is inconsistent with the public policy favoring relative placement.”

Regarding the second issue, the Court of Appeals held that, “By basing its decision that grandmother failed to establish a prima facie showing on the erroneous legal conclusion that grandmother had been previously ruled out as a placement option, the district court abused its discretion. This conclusion is driven by our earlier analysis that a district court must issue a ruling expressly excluding a relative as a suitable placement option in order to be considered ‘ruled out by the court’ pursuant to Minnesota Statutes section 260C.07, subdivision 2(5).”

English mathematician and philosopher Alfred North Whitehead said,

“We think in generalities, but we live in detail.” Applied to adoption law, this could not be more true. 📖

Daniel Pollack is professor at Yeshiva University's School of Social Work in New York City. He can be reached at dpollack@yu.edu; (212) 960-0836.

Reference Notes

1. Annie E. Casey Foundation Kids Count Data Center. 2017. Children in Kinship Care. Retrieved from <https://datacenter.kidscount.org/>
2. U.S. Census Bureau. 2017. American Community Survey 1-Year Estimates. Retrieved from <http://bit.ly/2IVQgVt>
3. State of Minnesota, In Court of Appeals, A18-1228 (2018).

TEENAGE MOTHERS continued from page 33

and swiftly” to “frequently and slowly.” Despite our policy and legal commitment to keep a child with their parent, insufficient evidence has been collected regarding whether or not this commitment has been fulfilled in the particular fact scenario under discussion. Further critical analysis is necessary to determine baseline data and consequent viable evidence-based policies. 📖

Daniel Pollack is professor at Yeshiva University's School of Social Work in New York City. He can be reached at dpollack@yu.edu; (212) 960-0836.

We generally believe that maturity comes with age. Yet even for the most organized and savvy parent, successfully nurturing a young child is a challenge. For teenage mothers the trials are especially daunting.

Reference Notes

1. The AFCARS Report (2017). Preliminary FY1 2016 Estimates as of Oct 20, 2017, 24, p. 3. Retrieved from <http://bit.ly/2VmyaCR>
2. See <http://bit.ly/2UCs5hd>
3. Boonstra, H.D. (2011). Teen pregnancy among women in foster care: a primer. Guttmacher Policy Review, 14(2).
4. Chill, P. (June 25, 2018). Hundreds of U.S. children taken from home. *Hartford Courant*. Retrieved from <http://bit.ly/2vmkbhC>
5. 530 U.S. 57, 65 (2000) (plurality opinion). See also *Meyer v. Nebraska*, 262 U.S. 390 (1923) and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).