

US Proposals on Adoptions Abroad get Mixed Reviews

November 14, 2003

A proposal by the federal government to step up regulation of international adoption agencies has divided child advocacy and adoption groups, with some warning that the new rules would make adopting children overseas more costly and difficult.

Supporters of the regulations say they are needed to safeguard parents and children from unscrupulous operators.

The business of international adoptions now brings 20,000 foreign children a year to American families. But the system has often been marred by allegations of fraud, baby trafficking, coercion of birth mothers to relinquish their children and profiteering by some adoption agencies. Prospective adoptive families face a sometimes daunting task of choosing from hundreds of agencies and programs in a largely unregulated multibillion-dollar business.

Greater regulation is needed because "children and their families deserve to be protected," said Adam Pertman, executive director of the New York-based Evan B. Donaldson Adoption Institute. "It's about time that we take children and families seriously, that we have a systematic framework in place to protect them."

The goal of the proposed regulations is to fix the process so "the interests of U.S. prospective adoptive parents are ensured," said Kelly Shannon, a spokeswoman for the State Department's Bureau of Consular Affairs. "We need to try and ensure that the child is not trafficked."

The State Department is the lead agency on the regulations, which are designed to implement an international treaty known as the Hague Convention on Intercountry Adoption. So far, 48 nations have signed the treaty, which requires countries to create a central authority to supervise foreign adoptions, institute measures to guard against illegal baby selling and ensure that adoption agencies are accredited.

The regulations were proposed in September. The public can submit comments until today, after which the government will consider the regulations further before making them final.

Foreign adoptions by American parents are booming. The State Department processed more than 20,000 immigrant visas for orphans last year, up from 7,377 a decade earlier. Department officials were unable to provide the exact number of visas granted for orphans so far this year.

Adoption agents say adopting from overseas is increasingly popular because doing so at home is often more expensive and time-consuming. Moreover, domestic adoptions involve numerous restrictions, such as a 40-year age limit for prospective adoptive parents and requirements in some states that they be heterosexual and married.

Kevin Kreutner, 33, a marketing specialist from the Bay Area city of Pittsburg, and his wife, Sheila, are adopting a 6-month-old girl from Guatemala, currently in foster care there.

Among the reasons they chose the foreign route, he said, was their worry about the ability of American birth parents to reclaim a child within the first few months of an adoption. But the high costs of domestic adoption also were a factor.

"We just wanted a normal, healthy baby to start our family," said Kreutner, noting that, so far, he has been impressed by the efficiency of the adoption procedure in Guatemala, in contrast to the disorder often associated with that nation.

Adopting a foreign child typically costs \$15,000 to \$25,000, according to various representatives of international adoption agencies.

The price of acquiring a newborn American infant with the help of a private adoption agency sometimes hits \$50,000.

Some agencies say the new rules would drive up the costs of international adoptions.

If the proposed rules become law, they say, many smaller agencies may be put out of business. And because a chunk of the additional costs would have to be shouldered by prospective adoptive parents, many might rethink their decisions to adopt foreign children, depriving scores of needy youngsters the opportunity of finding new families.

One concern about the draft regulations involves provisions that would make U.S. agencies responsible for the actions of people they hire abroad. The agencies would become responsible for clerical errors, medical misdiagnoses or inaccurate documentation by foreign contractors even if the errors were the contractors' fault.

That would be unfair, some agencies say, because they generally have little meaningful control over their foreign counterparts, who might be working in countries where medical training, health care, record keeping and legal services are often of poor quality.

"American agencies cannot reasonably be expected to visit every orphanage, attend every doctor's visit, file every paper for every child eligible for international adoption," the New Jersey-based agency Reaching Out Thru International Adoption said in comments submitted to the State Department.

"It's hard enough already to police your own employees, but we are being asked to police the employees of other agencies in foreign countries as well," said Debbie Spivack, executive director of Reaching Out.

Agencies often require prospective parents to sign informed-disclosure forms that say the parents are aware of some of the risks involved in the adoption process and that release the agencies from liability.

The proposed regulations would prohibit that, leading to more lawsuits against agencies, said Howard Cooper, a trial attorney from Boston who has handled several contentious cases on behalf of international adoption agencies.

In some cases, previously undiagnosed developmental and learning disorders show up months or years after children are adopted, Cooper said.

Under the proposed regulations, parents would be able to sue the adoption agency for not informing them that this might occur.

"My fear is that, in this highly litigious society, people will choose not to be educated about the process and just assume unfairly that they will receive some guarantee that none of us has the right to expect," he said.

"We feel agencies will close their doors because they are too fearful of the possibility of liability," Spivack said. "And, ultimately, the children in these countries will pay the price."

Other suggested rules, including requirements that each agency carry \$1 million in insurance per adoption, have a social worker with a master's degree on staff and operate out of proper office space, would also place new financial burdens on agencies.

The treaty "ignores the small agencies. I'm not happy with that," said Hemlata Momaya, executive director of Bal Jagat Children's World, an agency based in Chatsworth that handles about 70 adoptions a year from China, Thailand, Vietnam, India, Russia and other countries.

Momaya expressed concern that her small agency might have to be supervised by a larger outfit. "I've been in the business for 20 years. Why do I have to have somebody else looking over my shoulder?" she asked.

"It's the same old argument that we have about big government," said Sherri Archer, who runs Angels' Haven Outreach from her home in Santa Clarita. Licensed in California since 1998, the agency handles about 50 adoptions a year from Africa, Asia and Eastern Europe. "It seems the more government is involved, the more convoluted things become."

But supporters of the rules say a little extra bureaucracy is a small price to pay for safeguarding the interests of adoptive parents and their prospective new charges.

“Will some agencies go out of business? Perhaps,” said Pertman of the Adoption Institute. “Those that will continue to operate will be the ones that are willing to improve standards and provide more protection and certainty for the people involved. That’s not a terrible outcome.”

This information is from the Associated Press.