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Testimony in SUPPORT of S75, "Further Regulating the Placement of Certain Children" (Sen. Creem)

April 4, 2007

Good afternoon Chairwoman Coakley-Rivera, Chairwoman Spilka, and members of the Committee. My name is Nancy Rosenhaus. I am the Associate Director of Adoptions With Love, a non-profit licensed domestic adoption agency since 1986 that has placed over 1400 children into loving homes over 21 years. I have worked at AWL for the past 18 years counseling adopting couples as well as birthparents contemplating adoption plans for their babies. I have seen the landscape of adoption change dramatically over the past 10 years. I appreciate the opportunity to testify in support of S 75, "Further Regulating the Placement of Certain Children." I ask that you favorably report out this bill as soon as possible to prevent undue harm to children, birth parents, and families wishing to adopt.

This legislation is actually a technical correction to legislation that was passed this past summer changing the legal definition of "placement agencies" in Massachusetts. Moreover, as you know, the technical correction bill that is now before your committee is the exact same language that was passed by both the House and Senate with unanimous support and sent to Governor Romney on the last day of the legislative session. Unfortunately, the Governor abrogated his responsibility for child welfare when he chose to pocket veto the legislation.

The original change in the law that was made last summer was meant to allow the Commonwealth to contract with proprietary foster care agencies to provide foster care placement services without needing to partner with a "non-profit" placement agency. This change was made in the wake of a change in federal law ("The Fair Access to Foster Care Act of 2005") allowing states to seek federal reimbursement for eligible foster care services provided under contracts with both proprietary and non-profit providers. However, while the change in the legislative language defining "placement agencies" allowed "for-profit" foster care agencies to engage in placement services, it also unintentionally allowed "for-profit" adoption placements in Massachusetts. When it took effect, the new law unlocked the door to "for-profit" adoption agencies by allowing them to do business in Massachusetts, and laid the groundwork for putting existing "non-profit" adoption agencies out of business- leading to unnecessary harm to children, birth parents and families wishing to adopt. It is our understanding that the Commissioner for Early and Education and Care has already received inquiries from out of state for-profit companies seeking to be licensed in Massachusetts under the change made this past summer.

The distinctions between foster care placement and adoption placements may seem inconsequential, however they are not. The primary distinction between "for-profit" foster care and adoption placements lies with the issue of fees. Whether they are "non-profit" or "for-profit," foster care placement agencies have a binding rate for placing children into foster care, established by the state agency with which they contract to provide foster care services.

Unlike foster care, adoption agencies do not have mandated fee limitations. Therefore, an adoption agency (whether "for-profit" or "non-profit") determines the fee they may charged to prospective parents in addition to determining how they may provide financial assistance to birth parents. It is not uncommon for "for-profit" adoption agencies to "assist" birth parents by providing them with large sums of money, cars, or even luxury housing accommodations if they make adoption plans for their child.

Offering financial incentives to birth parents in exchange for the termination of their parental rights is not only morally and ethically reprehensible, but it will also significantly increase the cost of adoption for families in Massachusetts. In states where "for profit" adoptions are legal, the cost of procurement is transferred to adoptive parents through increased fees. For example, in Louisiana, a birth mother may be given stipends totaling tens of thousands of dollars, a new car, and housing in a fancy condominium in exchange for terminating her parental rights. Once a birth mother is lured by these items, she is coerced to sign a document stating that she fully understands that she would be required to return all the money and gifts given to her if she does not agree with the adoption plan after the baby is born. Although illegal, this coercive behavior occurs in many places.

On the other hand, with "non-profit" adoption agencies, prospective adoptive parents pay reasonable fees for services rendered instead of "what the market will bear." Similarly, birth parents have the right to know that their child is being placed with the best possible family and not with a family that can "pay the most." The profit made by an individual or by an agency should never be the paramount issue in an adoption placement. Rather, what is in the best interest of the child should outweigh any and all issues regarding the bottom line. No adopted person should have to experience the pain of knowing that people profited from his/her placement. Moreover, adoption plans are often made when children and adults are in crisis thus creating the enormous potential for both emotional and financial exploitation.

"Non-profit" adoption agencies require transparent operations and procedures protecting the long term interests of all members of the adoption triad (birth parents, adoptive parents, and child) and statewide standards and mandates are accepted and practiced universally by all "non-profit" groups participating in adoptions in Massachusetts. That is why the Child Welfare League of America Standards for Excellence in Adoption Practice state: "Adoption as a child welfare service for children is best provided through an authorized public child welfare agency or voluntary, nonprofit adoption agency....." Adoption agencies in Massachusetts are licensed "non-profit" social service agencies that are committed to providing services to all involved in the adoption process.

Adoption is a life long journey which often leads those touched by it to seek the assistance of adoption professionals with ongoing knowledge of their situation. Unlike "non-profit" agencies, "for-profit" adoption agencies do not offer ongoing counseling or a mechanism for people to maintain contact over the years with access to professional help when needed. Instead, "for profit" adoption agencies assess their bottom line in terms of the numbers of placements and the financial gains made from those placements, rather than committing themselves to the long term health and wellbeing of children and families. The "non-profit" adoption agencies currently functioning in Massachusetts are committed to the long-term support of the children, birth parents and adoptive parents that they serve.

The consequences for this change are far reaching and were not explored prior to making such a serious change in Massachusetts law. Prospective adoptive parents seeking children from foreign countries will likely be confused with the entry of out of state "for-profit" operators, because many foreign countries allowing U.S. adoptions work exclusively with "non-profit" agencies.

We do not fault those who made the original change in the legal definition of placement agencies. We understand that sometimes the full effects of a change in law are not understood until after the bill is passed.

The Commonwealth of Massachusetts has always been a leader in setting high ethical standards for adoption practice. We ask that you maintain that same standard by reversing the destructive change in the law and closing door to "for-profit" adoption in Massachusetts before it is too late, while preserving the intent of the change made last year—which was to give the Commonwealth the flexibility of contracting with proprietary foster care agencies that provide high quality services at a fair price for taxpayers.

Thank you.