

New Massachusetts Law Inadvertently Opens the Door to For-Profit Adoption

Adoption Professionals Association of Massachusetts

Background

Without a hearing or substantive debate in the State House, the Legislature and the Governor amended the legal definition of "placement agencies" in Massachusetts this past summer. This significant change in the law now allows "for-profit" corporations to engage in the placement of children, a task that has been the exclusive responsibility of the "non-profit" community.

The change was meant to allow one well respected Massachusetts "for-profit" foster care agency to provide foster care placement services without the need to partner with a "non-profit" placement agency. However, while the change in the legislative language allows "for-profit" foster care agencies to engage in placement services, it also unintentionally allows "for-profit" adoption placements in Massachusetts. To the best of our knowledge, no adoption professionals in Massachusetts were informed or consulted regarding this change. **The new law unlocks the door to "for-profit" adoption agencies by allowing them to do business in Massachusetts, having the potential of putting existing "non-profit" adoption agencies out of business and causing unnecessary harm to children, birth parents and families wishing to adopt.**

Foster Care and Adoption Placements are NOT the Same

The distinctions between foster care placement and adoption placement 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 charge 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.

The Consequences of Introducing For-Profit Adoption to Massachusetts

Offering financial incentives to birth parents in exchange for the termination of their parental rights not only is morally and ethically reprehensible, it will 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. This is illegal but the 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.

Any significant change to the adoption process should be vetted publicly

The Commonwealth of Massachusetts has always been a leader in setting high ethical standards for adoption practice. Unfortunately, adoption and social welfare professionals were never informed of the change prior to it being signed into law. It goes without saying that public hearings and consultations with social welfare professionals, adoption attorneys and others involved in the day-to-day work of adoption are an essential and critical component in the process of amending legislation regarding children, birth parents and adoptive families. Parents, citizens, adoption professionals and even legislators have been nothing short of stunned as the serious consequences of this change become more evident.

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.

The door to "for-profit" adoption will remain open until this change in the definition of "placement agency" as it relates to adoption is amended. As such, it is imperative that technical correction language be enacted as soon as possible.