



CITY OF PHILADELPHIA

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March 24, 2016

The Honorable Katharine Watson
Majority Chairwoman, House Children and Youth Committee
Room 41A East Wing
P.O. Box 202144
Harrisburg, PA 17120-2144

The Honorable Scott Conklin
Minority Chairman, House Children and Youth Committee
314 Irvis Office Building
P.O. Box 202077
Harrisburg, PA 17120-2077

Re: House Bill 1525

Dear House Children and Youth Committee members:

Thank you for the opportunity to comment on House Bill 1525. These comments are submitted on behalf of the City of Philadelphia Department of Human Services, which is the largest child welfare agency in the Commonwealth.

To preface my comments to the proposed legislation that follow, I underscore that there are many instances where the issues can be vastly different in adoptions involving public agencies when contrasted with private adoptions. In the public agency context, there have been repeated efforts throughout the life of the dependency court, which may last for several years, to locate and provide notice to birth parents. Therefore, the same requirements related to publication should not apply when a public agency is involved. Below please find my other specific comments and concerns.

The proposed legislation at 23 Pa.C.S. § 2514 provides regarding “Notice if identity or whereabouts of parent or putative father unknown”

(b) Notice by publication.--If the petitioner can establish that an unsuccessful diligent search has been made to identify or locate a parent or putative father, notice of the proceeding

may be given to the parent or putative father by publication one time in both a newspaper of general circulation and in the county legal journal at least 10 days before the date of the hearing. Proof of publication of the notice provided under this subsection must be submitted to the court.

(c) Waiver of diligent search and publication of notice.--If the putative father knows or has reason to know of the child's birth, and the putative father has failed to make reasonable efforts to maintain substantial and continuing contact with the child and provide substantial financial support for the child, the court may waive the requirement for a diligent search and the publication of notice. Notice to a putative father shall be considered given under this section if the court waives the requirement for a diligent search and the publication of notice and makes a specific determination that additional efforts to locate or identify the putative father and provide notice do not serve the best interests of the child.

The City of Philadelphia Department of Human Services opposes this language. Notice by publication should not be required in instances where a parent has voluntarily relinquished his/her rights. Parents who voluntarily relinquish their rights clearly know that their rights are going to be extinguished by virtue of their signing of the voluntary relinquishment document. In these circumstances, i.e., in a petition to Voluntary Relinquish to an Agency or in a petition relating to Alternative Procedure of Relinquishment, publication is unnecessary. Even though the current proposal would allow the individual or a court to waive the requirement, this would be up to the individual or the court to determine, and would unnecessarily delay permanency for children in the child welfare system

Similarly, in Petitions to Involuntarily Terminate Parental Rights, when a public agency is involved, notice by publication should not be required. Service by publication in a county such as Philadelphia is unlikely to result in more effective notice to parents, but would result in prohibitive costs to the county children and youth agency as well as significant delays in the achievement of permanencies. Requiring notification by publication would present a major barrier to achieving permanencies in Philadelphia because it would lengthen the time before an adoption could be finalized.

Where a parent's identity is unknown, publication would not resolve the underlying issue of their identity being unknown. The proposed legislation does not make a distinction between private adoptions and adoptions involving a public agency where there have been extensive efforts throughout the life of the case to identify all parents. To the extent that this proposed legislation attempts to put into place a system of checks and balances with regard to protecting the parental rights of any putative father, this system is already in place in the public agency arena. From the onset of a dependency court case, there are judicial findings at every stage with regard to each parent, and efforts to involve both parents in the case. In Philadelphia, there are court hearings at least every 90 days up until the point where parental rights are terminated; the court is already making findings as to a parent's whereabouts at every stage of the proceeding.

Current practice requires that a termination against a putative father only occur after efforts to identify the father. Social work efforts are used to identify the father throughout the life of the case. If a father's name is not on the birth certificate, a document from the Pennsylvania

Department of Human Services Office of Income Maintenance Bureau of Child Support Enforcement is attached to the Termination of Parental Rights petition stating that there is no acknowledgement or claim of paternity on file. Publication would not further the likelihood of identifying an unknown father.

Presently, Philadelphia's local rule does not require publication but simply that "notice is provided in accordance with law for all persons entitled to notice. Philadelphia County Family Div. Rule 15.5. Since Philadelphia's local rule does not require publication if a parent's whereabouts are unknown, service by mail at the last known address implies a good faith effort to discover the current address. Consideration of other sources of information pertaining to a parent's whereabouts such as searches of multiple databases and consideration of any other information concerning a parent's whereabouts constitutes a good faith effort—or required by Pennsylvania jurisprudence-- to discover the address. A process server makes several attempts at personal service and then posts the papers at the address. In addition, it should be noted that where a father's identity is known, he is represented by counsel pursuant to the Juvenile Act, and that attorney has an ethical obligation to inform his client of the status of all proceedings, making publication even less relevant in this situation.

We support language similar to the current court rule, *i.e.*, Pa. O.C.R. 15.6(a), which requires that notice to the parent shall be by personal service, service at his or her residence on an adult member in the household, or by registered or certified mail to his or her last known address. If service is unobtainable and the registered mail is returned undelivered, then further notice by publication or otherwise shall be given if required by local rule or special order of the Orphan's Court. O.C.R. 15.6(b)(1). While there is currently a proposal before the Juvenile Court Procedural Rules Committee to change this rule, the City of Philadelphia Law Department has recently commented to that committee that the existing language should remain in place. See Pa.O.C.R. 15.6.

It is also important to note that mandatory publication in court-involved dependency cases of a parent's name and a child's name and their involvement in the child welfare system may violate the confidentiality provisions of sections 6339 and 6340 of the Child Protective Services Law.

Thank you so much for your consideration of these comments. We greatly appreciate the opportunity to provide input.

Sincerely,



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Acting Commissioner
Department of Human Services

cc. Dan Moul
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