Adoption Tax Credit and Other Financial Assistance

Issue Overview

Since its establishment in 1996, the adoption tax credit has defrayed the high cost of adoption for many families who would otherwise find adoption financially prohibitive, and has enabled thousands of children who might have languished in foster or institutionalized care to find loving, permanent families of their own. The recent passage of health care reform included a provision to expand and extend the adoption tax credit. For 2010, the maximum adoption tax credit that may be claimed by income-eligible families is $13,170 per domestic or intercountry adoption; the tax credit must be claimed in the year that the adoption was finalized.1

The adoption tax credit, which is provided for and adjusted under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), is not a permanent fixture in the tax code. If it is not renewed by December 31, 2011, the amount of the tax credit will decrease to $6,000 for special needs adoptions and will no longer exist for non-special needs adoptions.

Current pending adoption tax credit and adoption financial assistance legislation

HR 213 – Adoption Tax Relief Guarantee Act of 2009. The adoption tax credit was expanded through provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). HR 213, introduced by Rep. Joe Wilson (R-SC), would prevent the expiration of EGTRRA, including those provisions that provided for and expanded the adoption tax credit.

1 For more information see the Congressional Coalition on Adoption Institute blog at http://ccainstitute.wordpress.com/2010/03/26/whats-new-with-federal-child-welfare-financing/.
S 2816 – Adoption Tax Relief Guarantee Act. Introduced by Senators Jim Bunning (R-KY) and Ben Nelson (D-NE), this bill would also not allow the EGTRRA provisions that expanded the adoption tax credit to expire, making the tax credit permanent. In addition, this bill would allow adoption expenses to be claimed in the year they are incurred, regardless of when the adoption is finalized.

S 722 – Taxpayer Certainty and Relief Act of 2009. This bill, introduced by Sen. Max Baucus (D-MT), would also extend the adoption tax credit expanded under EGTRRA. This bill also includes other tax-related provisions related to the alternative minimum tax, estate tax, child tax credit, and the earned income tax credit.

HR 2524 – Dave Thomas Adoption Act of 2009. Introduced by Rep. Peter King (R-NY), this bill would allow penalty-free withdrawals from individual retirement accounts in order to pay adoption expenses.

HR 3409 – Advocates Dedicated to Older Child Parental Tax Credit (ADOPT) Act of 2009. Rep. Melissa Bean (D-IL) introduced this bill which would allow a $2,000 tax credit for expenses related to adopting a child age nine or older. This credit could be claimed each year until the child reaches age 19.

PL 111-148 – Patient Protection and Affordable Care Act. This law, also known as Health Care Reform, included a provision that makes the adoption tax credit refundable, increases the amount to $13,170 per adoption for 2010 and extends it through the end of 2011. The bill became law on March 23, 2010.

NCFA’s Position

NCFA has long supported and helped to pass adoption tax credit and financial assistance legislation, and hopes the adoption tax credit will be made permanent. In addition, we now support amending the credit to allow adoptive families to claim the adoption tax credit in the year the expenses are incurred rather than the year the adoption is finalized, such as that proposed in S 2816 (Bunning-Nelson’s Adoption Tax Relief Guarantee Act). NCFA recognizes that, too often, the high cost of adoption may hinder families who wish to adopt, and therefore supports adoption tax credits and financial assistance for adoptive families that may lessen the financial burden.

Birthparent Issues

Issue Overview

There are currently a number of bills before Congress that address issues affecting birthparents. Both birthmothers and birthfathers often face many challenges, before and after placing a child for adoption. Some of the challenges birthparents face include resistance to adoption from family and friends, feelings of grief and loss, and misinformation about adoption. Many people still misunderstand or even stigmatize birthparents, despite the loving, difficult choice they make in order to ensure the well-being of their children.

One issue that has gained recognition recently, due in part to the rising number of non-marital births in the United States, is putative father rights. Putative fathers are presumed fathers of children born to single mothers, and their rights vary from state to state. If a birthmother makes an adoption plan for her child and the father is not properly notified according to state statute, then the adoption could be in jeopardy. To address this issue, many states have created a putative father registry, which allows a putative father to voluntarily acknowledge paternity and establish the right to be notified of any legal proceedings concerning his child, including an adoption plan. However, policies and statutes differ from state to state, and not all states have registries. Currently, in the absence of a national putative father registry, a man could register with his state’s registry but fail to be notified if the mother placed the child for adoption in a different state even though both states maintain a registry.

Current pending birthparent-related legislation

*S 939 – Protecting Adoption and Promoting Responsible Fatherhood Act of 2009.* Introduced by Sen. Mary Landrieu (D-LA), this bill would establish and maintain a National Putative Father Registry to be administered by the U.S. Department of Health and Human Services (HHS). Registry access would be limited to state agencies maintaining the database and any state agencies or entities involved in the placement of children for adoption. The bill would also establish grants for states to enhance legal protections for putative fathers, assist mothers in planning for a child’s future, and protect the privacy of birthparents.

*HR 1505 – Birth Parent Assistance Act of 2009.* Rep. Jean Schmidt (R-OH) introduced this bill, which would provide funding for birthparent services, including post-adoption services and individual, group, and family counseling. In addition, the bill would provide funding to train professionals at hospitals and other birth facilities on how to best serve birthparents and adoptive families.

*S 1032, HR 2035 – Pregnant Women Support Act.* This bill has been introduced by Rep. Lincoln Davis (D-TN) in the House of Representatives and Sen. Bob Casey (D-PA) in the Senate. One of the stated goals of the legislation is to provide services to help women carry their pregnancies to term and support new parents. Presenting adoption as an option to young women facing unplanned pregnancy and educating them about adoption is also a goal of the Pregnant Women Support Act. The bill includes other measures to support pregnant and newly parenting women, with additional funding for food stamps, the Women, Infants, and Children (WIC) program, childcare assistance, and a nurse home visiting program. This bill would also prohibit insurance companies from denying women coverage because they are pregnant.

*HR 643 – Care for Life Act.* This bill has been introduced by Representatives Jeffery Fortenberry (R-NE) and Cathy McMorris Rodgers [R-WA]. The bill seeks to accomplish similar goals as the Pregnant Women Support Act but it does so by creating an Office of Pregnancy Support Services within the U.S. Department of Health and Human Services. In addition to the services the bill would fund for pregnant women, it also contains provisions for expanding the adoption tax credit and adoption assistance programs. The bill would increase the adoption tax credit and adoption assistance for adoption of a special needs child to $15,000 and raise the income cap for receiving the tax credit to $200,000 a year. It would also make the adoption tax credit permanent and refundable.

**NCFA’s Position**

NCFA lists among its legislative priorities the protection of birthparent rights, in order to make adoptions secure. To protect these rights, as well as limit situations in which an uninvolved and/or uninformed birthfather prevents a birthmother from placing their child for adoption, NCFA supports the establishment of a National Putative Father Registry and assisted Sen. Landrieu in drafting her legislation. For additional information, please see NCFA’s *Adoption Advocate* No 14 (June 2009), *On the Benefits of a National Putative Father Registry* (http://www.adoptioncouncil.org/resources/documents/NationalPutativeFatherRegistry.pdf).

Sometimes adoption is the best option for a woman facing unintended pregnancy as well as for her child. Public policy must ensure that those facing an unplanned pregnancy receive timely and accurate information about adoption, as well as the necessary counseling and support if they choose to make an adoption plan.³ Rep. Schmidt consulted NCFA on the Birth Parent Assistance Act, and NCFA provided a general letter of support for the adoption provisions in the Pregnant Women Support Act.

³To help meet this need, NCFA is a regional administrator of the Infant Adoption Training Initiative (IATI), which trains counselors and other professionals who serve individuals facing unintended pregnancy to discuss the option of adoption with their clients.
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**Foster Care Issues**

*Issue Overview*

Of the more than 460,000 children in the U.S. foster care system, over 123,000 are currently waiting to be adopted. The foster care system is in desperate need of reform, and child welfare advocates and policymakers are constantly discussing ways to improve the system for the children who must enter it. For additional information, please see NCFA’s *Adoption Advocate* No 12 (May 2009), *A Statement on the Nation’s Foster Care System* (http://www.adoptioncouncil.org/resources/documents/AdoptionAdvocateNo12.pdf).

The Fostering Connections to Success and Increasing Adoptions Act of 2008 mandated many improvements that focus on promoting permanency and positive outcomes for children in foster care. To build upon this act and ensure much-needed reforms, legislators have introduced additional pieces of legislation designed to strengthen the provisions in the Fostering Connections Act.

**Current pending foster care legislation**

**HR 2072 – School Choice for Foster Kids Act.** Introduced by Rep. Michele Bachmann (R-MN), this bill would promote educational stability by authorizing states to use funds from the Chafee Foster Care Independence Program to provide school vouchers to children of all ages in foster care. The vouchers could be used to cover the cost of tuition at private schools, transportation costs to and from public schools, and enrollment in a school that meets a child’s special needs. Currently, these funds can only be used to provide vouchers to students age 16 to 23.

**S 2801 – To provide children in foster care with school stability and equal access to educational opportunities.** This bill, introduced by Sen. Al Franken (D-MN) and Sen. Patty Murray (D-WA), has a goal similar to the School Choice for Foster Kids Act, but seeks to accomplish it differently.

The bill would create a new program under which a state’s child welfare and education agencies would collaborate on and submit a plan to receive funds to meet the educational needs of children in foster care. The plan must include details on how the state would enforce the law, resolve disputes, provide for the educational transportation of children, and make determinations to promote educational stability and the best interests of children in foster care. (This bill was created in response to the mandate in the Fostering Connections Act requiring state child welfare agencies to ensure that children in foster care remain in their schools if it is in their best interest. However, it is the states’ education agencies that have authority over school enrollment policies. This bill is intended to enable both agencies to cooperate in addressing the issue.)

**S 986 – Foster Care Mentoring Act of 2009.**

This bill, introduced by Sen. Mary Landrieu (D-LA), would allow states to apply for grants from the U.S. Department of Health and Human Services to establish mentoring programs for children in foster care. It would create a national hotline and Web site for individuals interested in mentoring a child in foster care, and would also allow for the cancellation of federal student loans for eligible mentors.

**S 410 – Resource Family Recruitment and Retention Act of 2009.** Introduced by Sen. Blanche Lincoln (D-AR), this bill would require public and private child-placing agencies to provide foster parents with specific and detailed information in order to have their licenses renewed. This information would include: notification of case meetings, support services, a child’s history, the child’s permanency options, and services for dealing with loss when the child leaves the foster home. In addition, this bill would allow the U.S. Department of Health and Human Services to award grants to states for innovative programs designed to recruit and retain foster and adoptive families.

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**H.R. 4806: Every Child Deserves a Family Act.**
This act was introduced by Rep. Peter Stark (D-CA) and its purpose is to prohibit discrimination in adoption or foster care placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

**NCFA’s Position**

Promoting adoption out of foster care is one of NCFA’s leading policy priorities, and NCFA strongly supports any policy that will increase the likelihood of permanency for children in foster care. Many of the provisions included in the Fostering Connections Act were recommended and supported by NCFA, such as reauthorizing the Adoption Incentives Program to promote adoptions out of foster care.

Research indicates that children in foster care change schools often, which threatens their educational stability and success. Although the majority of children in foster care want to attend college, only 10% actually do.5 Steps must be taken to promote the stability, educational options, and future success of children in foster care. At the request of Rep. Bachmann, NCFA issued a letter of support for school permanency as outlined in HR 2072.

**Intercountry Adoption Issues**

**Issue Overview**


Despite the large number of countries that have implemented the Hague Convention regulations, there are still many challenges to intercountry adoption that can be addressed via federal legislation. For example, due to the United States immigration process to which internationally adopted children are currently subjected, some children are required to be readopted when they enter the country. This was not always adequately explained to or pursued by adoptive families, and has led a number of children who were never readopted to discover that they never became United States citizens. In extreme circumstances, some of these children have been deported back to their countries of origin. Steps can and should be taken to correct this under federal law.

**Current pending intercountry adoption legislation**

**S 1359, HR 3110 – Foreign Adopted Children Equality (FACE) Act.** The FACE Act was introduced by Sen. Mary Landrieu (D-LA) and Sen. James Inhofe (R-OK) in the Senate and Rep. Diane Watson (D-CA) and Rep. John Boozman (R-AR) in the House. If enacted, the bill will provide United States citizenship to internationally adopted children of United States citizens when their adoption is finalized in their country of origin. Currently, the Child Citizenship Act of 2000 (CCA) grants citizenship to internationally adopted children when they enter the United States, a policy that requires families to apply for and obtain an immigrant visa for children to travel from their country of origin to the United States. This bill would eliminate the immigration process after a child has been deemed eligible for adoption by the United States government. The intent of this bill is to ensure that internationally adopted children are treated equally under the law to children born to United States citizens abroad.

For additional information, please see NCFA’s Adoption Advocate No 15 (August 2009), NCFA Supports the Families For Orphan Act (FFOA) and the Foreign Adopted Children Equality Act (FACE) (http://www.adoPTIONCOUNCIL.org/resources/documents/FACEandFFOAAdoptionAdvocate_000.pdf).

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S 1458, HR 3070 – Families for Orphans Act of 2009 (FFOA). The FFOA was also introduced by Sen. Mary Landrieu (D-LA), Sen. James Inhofe (R-OK), Rep. Diane Watson (D-CA), and Rep. John Boozman (R-AR), and written with the goal of working towards permanency for all children on an international level. The bill would provide for the creation of an Office of Orphan Policy, Diplomacy and Development within the U.S. Department of State, which would be given diplomatic authority to help the millions of vulnerable children worldwide who have lost one or both parents or are at risk of losing parental care. The office would be responsible for supporting child-friendly policies, including that of intercountry adoption, and pursuing diplomatic relations with the international community in order to encourage permanent parental care for children in need. For additional information, please see NCFA’s Adoption Advocate No 15 (August 2009), NCFA Supports the Families For Orphans Act (FFOA) and the Foreign Adopted Children Act (FACE) (http://www.adoptioncouncil.org/resources/documents/FACEandFFOAAdoptionAdvocate_000.pdf).

S 1376 – A bill to restore immunization and sibling age exemptions for children adopted by U.S. citizens. Introduced by Sen. Amy Klobuchar (D-MN), this bill would restore immunization and sibling age exemptions for children adopted by United States citizens under the Hague Convention on Intercountry Adoption in order to allow their admission to the United States. This would give adoptive parents the option to obtain their children’s immunizations after they enter the U.S., which is already standard international practice for children adopted from non-Hague-compliant countries. Children with a biological sibling(s) adopted from a Hague-compliant country are also exempted.

S 3091 – Adoption Fairness Act. This bill was introduced by Sen. Amy Klobuchar (D-MN) and Sen. Mary Landrieu (D-LA). The purpose of the bill is to eliminate the cost of a Certificate of Citizenship for an internationally adopted child regardless of whether the adoption was finalized in a foreign country or in the U.S. Currently, children whose adoptions are finalized outside the U.S. receive a Certificate of Citizenship at no cost once the adoption is finalized. Parents of children whose adoptions are finalized in the U.S. are required to pay a $470 fee to obtain a Certificate of Citizenship for their child.

NCFA’s Position

NCFA is committed to safe and ethical intercountry adoption, and is a strong supporter of both the Foreign Adopted Children Equality Act and the Families For Orphans Act. As a member of the Executive Committee of the Families for Orphans Coalition, NCFA assisted the bills’ sponsors in drafting both pieces of legislation and gathering congressional support. NCFA believes that adopted children should be treated equally under the law with biological children. The FACE Act would ensure this while maintaining the safeguards that protect children, birthparents, and adoptive parents.

Though the immigration process for internationally adopted children will change substantially, all children must still be deemed eligible for adoption by the country of origin as well as the United States. This change in the immigration process for internationally adopted children would save adoptive families time and money, and secure permanent United States citizenship for adopted children.

NCFA supports the goal of the Families for Orphans Act: to achieve permanency for all children throughout the world. In an effort to avoid institutionalized care, which has been shown to have severe negative effects on children’s health and development, NCFA advocates for a continuum of care in order to find permanency for children. This means that a child should be kept at home with his or her biological family if it is in the child’s best interests; if not, a placement with the child’s relative(s) or kin is preferred. If this is impossible, placing the child for domestic adoption, within his or her own country and culture, is the next best option. Finally, if it is the only way to avoid permanent foster care or institutionalized
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care, the child should be freed for an intercountry adoption. By creating a specific office within the U.S. Department of State to advocate for international permanency for children, the Families for Orphans Act would enable the United States to assist other countries in developing systems of care to better meet the needs of all children.

NCFA also supports Sen. Klobuchar’s S 1376, as it would correct what the adoption community believes is an oversight in current law. Receiving immunizations after a child enters the United States is common practice for children adopted from non-Hague-compliant counties. It has been determined that it is safer for a child to receive their immunizations over an extended period of time and under consistent medical supervision, rather than in one or two days in the country of origin.

NCFA also supports the principle of equity for all adoptees set forth in the Adoption Fairness Act by lessening the cost burden for families adopting internationally.

To learn more about a particular piece of legislation and to read the full text of each piece of legislation listed in this review, visit http://thomas.loc.gov/. To express support or concern regarding a bill, contact your elected officials. Contact information for elected officials can be found at http://www.usa.gov/Contact/Elected.shtml.

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