



August 23, 2023

Kim Johnson
Director, California Department of Social Services
744 P Street
Sacramento, CA 95814

Re: Requested Legislative Clean-Up to AB 120 (Committee on Budget) – Adoption Facilitator Prohibition

Dear Director Johnson:

On behalf of the California Alliance of Child and Family Services (CA Alliance) and the California Adoption-ART Lawyers (ACAL), thank you for the Department’s consideration of our input regarding technical issues identified in AB120 (Committee on Budget), which has now been signed by the Governor. As stated in our previous communications with your office, our main concern is unintended consequences that will adversely impact many adoptions in California. Gratefully, after recent discussions with Senate personnel, we have significantly narrowed our remaining concerns to the two following issues:

1. Unintended consequences for legitimate services providers.

Although we had proposed more extensive wording to address this issue, we understand that a new proposal has been floated to amend Family Code Section §8609 to exempt certain legitimate adoption providers who are essential to the adoption process, by adding the words, “*unless otherwise permitted by law.*”

We enthusiastically endorse this as a simpler and cleaner way to account for the many existing statutory authorizations for legitimate service providers to collaborate in adoption matters. However, this wording does create a legal loophole for unauthorized out-of-state providers because acts that would otherwise be unlawful pursuant to California’s laws (advertising, matching, etc.) are nonetheless lawful in the state where that provider is doing business.

For that reason, we recommend adding, “*unless otherwise provided by the laws of this State,*” or similar wording backed by statutory definitions which ensure that only the laws of the State of California are applicable to this exception.

2. Unintended consequences for unpaid, informal connections.

We also remain concerned that the penalties for non-compliance are not limited to those who receive compensation. Parties to an adoption are often connected via mutual acquaintances, friends, family members, places of worship, neighbors, counselors, etc. This new law will thus unintentionally subject a well-meaning and unpaid neighbor or family friend to civil and criminal penalties for “matching” parties to an adoption. Thus, we continue to recommend and request the addition of “*in exchange for compensation*” to Family Code §8521(a)(5), §8533(a)(4), Health &



Safety Code §1502(9)(a)(v), and §1502(a)(10)(a)(iv). For example, Health & Safety Code §1502(9)(a)(v) would be amended to read:

- (9) (A) “Full-service adoption agency” means any licensed entity engaged in the business of providing adoption services that does all of the following **in exchange for compensation**:
- (i) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.
 - (ii) Assesses the birth parents, prospective adoptive parents, or child.
 - (iii) Places children for adoption.
 - (iv) Supervises adoptive placements.
 - (v) Recruits prospective adoptive parents, locates children for an adoption, or acts as an intermediary between the parties to an adoption.

We believe that these simple and non-controversial fixes will ensure that the spirit and letter of the new/amended laws will be implemented as intended, thus avoiding unnecessary legal battles in the days to come. That in turn will ensure that the Department’s resources can remain focused where they are most needed.

Thank you once again for receiving this input as the final weeks of the legislative session are approaching. The many adoption stakeholders we represent are so grateful for your assistance.

Sincerely,

Tyler Rinde
Deputy Director of Child Welfare Policy
CA Alliance

Deborah Wald, CFLS
President, Academy of California Adoption Lawyers

cc: Elizabeth Schmitt, Consultant, Senate Budget and Fiscal Review Committee
Nicole Vasquez, Deputy Chief Consultant, Assembly Budget Committee
Mareva Brown, Policy Analyst, Office of Senate President pro Tempore Atkins
Kelsy Castillo, Policy Consultant, Office of Assembly Speaker Robert Rivas
Angela Pontes, Deputy Legislative Secretary, Office of the Governor
Richard Figueroa, Deputy Cabinet Secretary, Office of the Governor
Claire Ramsey, Chief Deputy Director, CDSS
Jennifer Troia, Chief Deputy Director CDSS
Kevin Gaines, Deputy Director, Community Care Licensing, CDSS
Angie Schwartz, Deputy Director, Children and Family Service Division, CDSS
Linda Hall, Fiscal Estimates Bureau, CDSS