

MINNESOTA'S ADOPTION LAWS:

Protecting the Child, Birth Parents and Adoptive Parents

150269



Commissioner's Report to the Governor



Minnesota Department of Human Services

COST OF PREPARING THE REPORT

The cost of preparing the Commissioner's Report is provided to comply with the requirements of Minnesota Statutes, section 3.197.

Laws of Minnesota 1994, Chapter 631, section 10 directed the Commissioner of Human Services to use an advisory committee to make recommendations on changes needed to further protect children placed for adoption, their birth parents and adoptive parents. A report with recommendations for state law changes was to be made to the governor and the legislature.

This report includes the cost of convening and supporting the work of the advisory committee and development of the Commissioner's report.

Department of Human Services Staff convened and facilitated the work of the advisory committee and prepared the Commissioner's report. The Department utilized the services of the Attorney General's Office throughout the process.

The costs of convening and supporting the work of the advisory committee and developing the Commissioner's report were as follows:

Convening and supporting the Advisory Committee	\$2,400
Department of Human Services and Attorney General's staffing costs	\$6,250
Printing costs for 200 copies of the report	\$ 437
	<hr/>
Total costs of preparing the report	\$9,087

If you ask, we will give you this information in another form, such as Braille, large print or audiotape.

TABLE OF CONTENTS

INTRODUCTION AND OVERVIEW	5
THE LEGISLATIVE DIRECTIVE.....	5
BACKGROUND	6
■ Purpose of Adoption	6
■ Previous Adoption Legislation	6
■ 1994 Legislation	6
THE COMMITTEE PROCESS	8
ISSUES ADDRESSED BY THE COMMITTEE AND RECOMMENDATIONS FOR LEGISLATIVE CHANGE	9
■ Specific Recommendations for Legislative Change	9
■ Adoption Issues Requiring Further Work.....	14
■ Judicial Discretion: Determining the Best Interests of the Child	14
■ Birth Mother's Responsibility to Notify an Alleged Father.....	15
■ Financing an Adoption	15
■ Issues Not Addressed by the Advisory Committee.....	16
FUTURE ACTION	18
ATTACHMENT	
■ Listing of Advisory Committee Members	19

EXECUTIVE SUMMARY

Adoption is the legally declared and socially implemented creation of a parent/child relationship where none previously existed. It is an intensely emotional and legally complex phenomenon.

In 1994 the Legislature enacted major revisions to Minnesota's adoption laws. The revisions:

- created a legal framework for direct adoptive placements (also known as independent or private adoption);
- required preplacement adoption studies;
- mandated that written health and social information about the child and birth parents be given to the adoptive parents;
- defined expenses which adoptive parents may be asked to pay;
- clarified the requirements for licensure as a licensed child placing agency; and
- required agencies to provide specific consumer information about their services.

The Legislature required the Commissioner of Human Services to use an advisory committee to make recommendations for further changes in state law needed to protect children, birth parents and adoptive parents. The committee, representative of every group affected by adoption, included adopted adults, birth parents, biological grandparents of children placed for adoption, adoptive parents, judges, private attorneys, county human service agencies, licensed child placing agencies, and representatives of the councils of color.

The committee, which met five times between September 28, 1994 and January 20, 1995 began by identifying the different types of adoption and the children affected. The committee also reviewed the philosophy underlying adoption laws and practices and identified numerous issues regarding adoption that needed to be discussed.

The committee was particularly aware of two high profile cases, "Baby Jessica" and "Baby Richard". In both situations, the child's birth father was not aware of the proposed adoption until after the child was placed in the prospective adoptive parent's home. The courts ultimately ordered that the child be returned to the home of the birth father. The issues raised by these cases underscored significant discussion about the rights and responsibilities of birth mothers, alleged fathers and prospective adoptive parents versus the rights of the child. The committee also examined the amount of judicial discretion courts currently have to waive statutory provisions and whether courts should be allowed to use the "best interest" standard to decide challenges to an adoptive placement or a previously finalized adoption.

RECOMMENDATIONS

The committee arrived at consensus on 14 specific changes to Minnesota's adoption laws. Eight of the changes focus on fine-tuning the legislation passed in 1994 in order to clarify language or provide more specific direction to courts and licensed child placing agencies. Three additional recommended changes would clarify the type of information which must be given to courts prior to an adoption hearing, allow adoption records to become public records 75 years after the adoption, and simplify the procedure through which adopted persons aged 65 or older can obtain information from their original birth certificate. Finally, the committee identified three areas in which new legislation is needed. The proposed new legislation would, subject to court approval, give biological grandparents some visitation rights in stepparent adoptions, require a cross reference to the Indian Child Welfare Act in the adoption statutes, and simplify the procedure for obtaining Minnesota birth certificates for children legally adopted in other countries.

CONCLUSIONS

Members of the committee held divergent opinions about giving the court wide discretion to waive statutory requirements. Similarly, the committee was unable to agree that a court should be given the authority to use the "best interest" standard when deciding challenges to an adoptive placement or previously granted adoption. Committee members also expressed differing opinions regarding the responsibility of birth mothers to notify alleged fathers of their intention to make an adoption plan. A majority of the committee members were in agreement that the complexity of these issues warranted more study before any specific legislation could be proposed.

Time constraints prevented the committee from examining a number of important issues concerning adoption. Some, such as adoption issues related to the various forms of surrogate parenting, have not previously received much attention.

The Commissioner believes that the advisory committee accomplished a great deal in a short period of time. Thus, the Department intends to reconvene the committee following the 1995 legislative session. The Commissioner and the committee will continue to work to resolve some of the more complex issues and address others which were not previously examined. The Commissioner may initiate legislation containing the current recommendations and any further recommendations of the committee in 1996.

MINNESOTA'S ADOPTION LAWS:

Protecting the Child, Birth Parents and Adoptive Parents

INTRODUCTION AND OVERVIEW

The Legislative Directive

In 1994, the Legislature made substantial changes to Minnesota's adoption laws. Recognizing that further changes may be necessary to adequately address contemporary issues while protecting all parties in the adoption, the legislature gave the following directive:

The commissioner of human services shall use an advisory committee including birth parents, adoptive parents, adopted adults, county agencies, private adoption agencies, consumer advocates, representatives of the state councils of color and the legal community to make recommendations on further changes needed in order to protect children placed for the purpose of adoption, birth parents or guardians, and prospective adoptive parents. A report with recommendations for state law changes must be made to the governor and the legislature no later than February 1, 1995.

1994 Laws of Minnesota, chapter 631, section 30.

The Commissioner's report is, in part, a snapshot of the advisory committee's ongoing work. The report reflects the areas of concern, agreement, and disagreement expressed by committee members. It also reflects the significant amount of consensus achieved over a short period of time on very important, yet emotionally charged, issues.

This report details the composition of the advisory committee and the process it used to identify issues. The report reviews the 1994 amendments to the adoption statutes and contains specific recommendations for changes to Minnesota's adoption laws. The report also identifies several complex issues needing further work before recommendations can be made. Finally the report outlines the Commissioner's long-term plan to continue using the committee to resolve outstanding issues and concerns.

BACKGROUND

Purpose of Adoption

Adoption is the legally declared and socially implemented creation of a parent/child relationship where none previously existed. The purpose of adoption is to provide a permanent family for a child whose birth parents are unable to provide that permanence. The laws and practices governing the adoption process protect the interests and rights of children, but also define and protect the rights and responsibilities of birth parents, adoptive parents, licensed child placing agencies, courts and others affected by adoption. To serve the best interests of children, the legal processes must reflect and respond to the evolving social context within which adoption occurs.

Previous Adoption Legislation

Since 1974, when the last major revision of the adoption statutes prior to 1994 occurred, amendments to the adoption statutes have responded to specific concerns brought before the Legislature. For instance, amendments in 1977, 1982 and 1986 responded to the concerns of adopted persons and birth parents regarding their inability to obtain health information about one another, their right to be advised of the death of a birth child or birth parent, and their right to meet one another.

The 1982 Minority Heritage Preservation Act (now known as the Protection of Heritage or Background Act) responded to concerns that adoptive placements ignored the importance of heritage as a factor in making placement decisions. The Act recognized the need to consider the child's heritage as a factor in making placement decisions and established an order of preference (unless specifically waived by the birth parent) in the adoptive placement of children.

1994 Legislation

In 1994, the Legislature made major revisions to the adoption statutes. Some of the revisions responded to the increased role of birth parents in the selection of adoptive parents, the need for greater regulation of licensed child placing agencies, and the roles of the Department of Human Services and the courts. The revisions went beyond responding to specifically identified concerns, and updated the adoption statutes to make them more responsive to many contemporary adoption issues. The amendments included:

- a) Identification of specific expenses which adoptive parents may be asked to pay. The average cost of adopting has increased dramatically over the past 10 years. Costs include agency fees, attorney fees and reimbursement for the birth mother's attorney, counseling, medical expenses and other expenses specifically related to the adoption.
- b) Creation of a procedure for direct adoptive placements (also called independent adoption or private placement) where birth parents place their child directly with the prospective adoptive parents. The direct adoptive placement procedure provides a framework to protect the rights of the child, birth parents and adoptive parents from the moment the child is placed in the prospective adoptive home.

- c) Strengthened oversight of licensed child placing agencies. Amendments define activities which can only be performed by licensed child placing agencies, identify the circumstances under which a client may have legal recourse against an agency, and require that agencies provide written disclosure statements regarding their services and fees.
- d) Specific requirements affecting birth and adoptive parents. These include the completion of a favorable preadoptive study prior to the placement of a child in an adoptive home and providing social and health information about the child and birth parents to the adoptive parents.
- e) Restructuring the roles of the Commissioner of Human Services and the local social service agencies in processing relative and stepparent adoptions. Local social service agencies now communicate directly to the court rather than through the Commissioner.

Because the Legislature recognized that the statutory changes would have significant impact on legal procedures, agency practice, and the decisions of birth parents and adoptive parents, it directed the Commissioner to use an advisory committee to make a report with recommendations on further necessary changes. This directive represents a proactive effort to minimize any unintended results and to ensure that Minnesota's adoption laws adequately address the variety of adoption-related issues which have surfaced within the past decade.

THE COMMITTEE PROCESS

The Commissioner sought to identify and invite representatives of all groups affected by adoption. The advisory committee included those most directly affected by adoption such as adopted adults, birth parents, the parents of persons who had placed their children for adoption, and adoptive parents. Professional representatives included judges, representatives from licensed child placing agencies, county social service agencies, adoption advocacy groups and attorneys in private practice. Additionally, a number of persons attended committee meetings as observers. These individuals offered their input and ideas directly to the Department. A complete list of members and observers is attached to the report.

The Advisory Committee met five times between September 28, 1994 and January 20, 1995. Before beginning work, committee members established group norms, including an agreement to seek consensus on any recommendations for change.

To begin the discussions, the Department prepared a list of known problems and issues and submitted it to the committee for consideration. The committee then identified additional issues for discussion. Issues the committee considered to be complex or controversial were categorized and assigned to subcommittees. The subcommittees were instructed to conduct an in-depth study of the issues and to develop recommendations. The subcommittees reported their recommendations to the full committee. The full committee discussed the subcommittee's recommendations and also discussed and arrived at consensus on a number of noncontroversial issues which had not been referred to the subcommittees. Some issues proved to be too complex to resolve at this time. These issues will be addressed in the section of the report entitled Adoption Issues Requiring Further Work.

The committee began its work by identifying the children in need of adoption. These children include:

- Children whose birth parents choose to make an adoption plan. These birth parents are generally over the age of 18 and begin considering adoption during the course of their pregnancy.
- Children committed to the guardianship of the Commissioner after a termination of parental rights. Typically, these children are older and frequently part of sibling groups. They often have experienced chronic neglect, physical, sexual, or emotional abuse and may, as a result, have psychological or medical difficulties. These children need strong, nurturing parents as well as specialized educational experiences and continued medical or psychological care.
- Children born in other countries. Commonly referred to as international adoptions, these children are either orphans or their parents have agreed to place them for adoption.

The committee also discussed the philosophy guiding adoption practice and legislation. The membership concluded that:

- the underlying purpose of adoption is to provide a permanent family for any child who is in need of one;
- the legal framework must ensure that the best interests of the child are met;
- the needs and interests of birth parents and adoptive parents must be considered in the planning and granting of an adoption; and
- the legal framework must protect the rights and interests of the birth parents and adoptive parents.

ISSUES ADDRESSED BY THE COMMITTEE AND RECOMMENDATIONS FOR LEGISLATIVE CHANGE

SPECIFIC RECOMMENDATIONS FOR LEGISLATIVE CHANGE

The committee identified provisions in the adoption statutes that need fine tuning and achieved consensus on a number of proposed legislative changes. The following is a description of the relevant statutory provisions, the current problems with the provisions, and the proposed legislative changes:

A - The requirement for an adoption study, as passed in the 1994 legislative session, includes a background check of the following records of each person over the age of 13 living in the home:

- criminal conviction data;
- substantiated maltreatment of a child data;
- domestic violence data; and
- juvenile court records.

Problem: The statute requires records checks to be completed but gives no direction as to how far back in time an agency or court must go. No direction is given for handling situations where the requested information is unavailable or where the parties have lived in other states or countries. Thus, there is the potential for considerable variation among agencies and courts in interpretation of the statutory requirements.

Legislative solution: Amend Minnesota Statutes, Section 259.41 to limit background checks to the ten-year period prior to the adoption study. If for any reason the information is unavailable, the efforts to obtain the information shall be documented and submitted to the court.

B - An adoption study must be completed prior to the placement of a child. The adoption study is not considered complete until the results of all records checks have been completed. It can take months to complete the records checks.

Problem: In direct adoptive placements and in placements where a birth parent has conferred upon an agency the authority to place the child, birth parents frequently identify a prospective adoptive family close to the date of the child's birth. In these situations, it is not unusual for an otherwise favorable adoption study to have been completed, except for the records check. Thus, the child must be placed in foster care or with a different adoptive family.

Legislative Solution: Amend Minnesota Statutes, Section 259.41 to allow prospective adoptive parents, prior to the completion of the background checks, to submit a sworn affidavit describing their criminal, child and vulnerable adult abuse, and domestic violence history. The affidavit would contain a notice that any false information would create the presumption that the adoption would not be in the best interests of the child. Although the affidavit would allow a placement to occur, the records checks must be completed before the filing of an adoption petition.

C - Legislation passed in 1994 requires that relatives obtain an adoption study prior to submission of an adoption petition.

Problem: Relatives are allowed to care for children related within the third degree of consanguinity without social service or judicial involvement. The adoption study requirement is unnecessarily intrusive, and may, because of the cost, create a financial barrier to relative adoptions. Prior to the 1994 amendments, relatives were allowed to file adoption petitions without requiring an adoption study.

Legislative solution: Amend Minnesota Statutes, Section 259.41 to allow relatives within the third degree of civil consanguinity to file an adoption petition without first having to obtain an adoption study. Continue to require, subject to the court's right to waive, the report to court which is required subsequent to the filing of an adoption petition.

D - In a direct adoptive placement, the birth parent who intends to place a child for adoption must notify the other parent, if their consent to the adoption is required. Notice must be given within 72 hours of the date of the child's placement. The purpose of the statute is to ensure the other consenting parent's knowledge and consent to the adoption plan at the earliest point possible and to prevent legal challenges to the proposed adoption.

Problem: It is often impossible to serve notice within 72 hours of placement because birth fathers who must consent to the adoption may not live in the area or may be difficult to locate. Another problem with the requirement is that it does not apply to situations where a birth parent executes consents conferring authority to an agency to place their child for adoption.

Legislative solution: Amend Minnesota Statutes, Section 259.24, subdivision a, to clarify that notice may be given prior to or within 72 hours after the child is placed and to require that a birth parent give notice to the other birth parent when conferring authority to a licensed child placing agency to place the child. This could be accomplished by moving the notice requirement from the direct adoptive placement section (259.47) to the general consent section (259.22). Add language making the time frame for executing consents run concurrently for placing and nonplacing parents.

E - In direct adoptive placements, the agency completing the adoption study must retain all records filed with the court.

Problem: The agency completing the adoption study may not be the agency that supervises the placement. It is possible that neither the agency completing the adoption study, or the agency supervising the placement would receive documents needed to obtain the preplacement or emergency order. Because all records are filed with the court and because agencies have access to the court files, there is no need to require agencies to retain the documents required for obtaining the preplacement or emergency order.

Legislative solution: Amend Minnesota Statutes, Section 259.47, subdivision 10, to identify those records the supervising agency must keep.

F - The cross-reference section of the current adoption statutes does not refer to the Indian Child Welfare Act or its applicability to adoption proceedings.

Problem: The failure to reference the Act increases the risk of noncompliance with the Act. Noncompliance with the Act may result in preventing tribal involvement in an adoptive placement, disruption of the adoption placement and the potential overturning of an adoption decree.

Legislative solution: Amend Minnesota Statutes, Section 259.20, subdivision 2, to include a reference to the relevant portions of the Indian Child Welfare Act.

G - Under current law, licensed child placing agencies are required to obtain a bond to cover the costs of transfer and storage of adoption records should the agency cease to operate.

Problem: The statute requires the bond to be in favor of the Commissioner of Human Services rather than the agency receiving the records.

Legislative solution: Amend Minnesota Statutes Section, 245A.04, to require that the bond be in favor of the agency receiving the records.

H - In direct adoptive placements specific direction is given as to what must be included in the report submitted to the court prior to an adoption hearing.

Problem: A report, unless waived by the court, is required in all adoptions. However, under current law, the requirements for the report in direct adoptive placements do not apply to other types of adoptions.

Legislative solution: Amend Minnesota Statutes Section, 259.43, so that the same reporting requirements apply to all adoptions.

I - Legislation passed in 1994 identifies specific adoption-related costs which adoptive parents may be asked to pay.

Problem: Payments of costs associated with the birth mother's pregnancy-related incapacity is limited to costs incurred six weeks after birth. This six-week limit is too restrictive considering the potential medical complications which can arise.

Legislative solution: Remove the six-week limitation.

J - A child involved in a stepparent adoption may lose the opportunity to maintain a relationship with their grandparents; the parents of the noncustodial parent whose rights will be severed by the adoption.

Problem: Current statutes do not address this issue. Thus, grandparents have no recourse to seek assistance to maintain a relationship with their grandchild.

Legislative solution: Amend Minnesota Statutes, Section 259.59 to allow affected grandparents to petition the court for an order granting visitation. The court could grant the order if it determines it to be in the best interests of the child. Failure to comply with an order would not be grounds for vacating or challenging the adoption.

K - The United States government currently recognizes the legitimacy of an adoption when parents go to a foreign country and adopt a child under the laws of that country. In these situations, the family may apply for U.S. citizenship for their child upon returning to their home.

Problem: In order to obtain a Minnesota birth certificate, the family must file a petition to adopt the child. This requirement is unnecessary, time-consuming, and expensive.

Legislative solution: Amend Minnesota's statutes to allow courts, upon receiving certain documentation, to order the Department of Health to issue a Minnesota birth certificate for a child whose adoption in another country is recognized by the Immigration and Naturalization Service.

L - Current statutes require that adoption records remain confidential information, inaccessible to anyone except through court order.

Problem: Significant social changes have altered the view of adoption and make continued permanent restrictions on adoption records outdated. For purposes of genealogical searches, the descendants of adopted persons are blocked from gaining information which would be of interest.

Legislative solution: Amend Minnesota Statutes, Section 259.79, subdivision 3, to allow all adoption records to become public records 75 years after the granting of an adoption decree.

M - Current statutes require adopted persons seeking information about their birth parents to contact the agency involved in their adoption to have the agency conduct a search for the birth parents. Upon contacting the biological parents, the agency must advise them of their birth child's request. If the birth parent cannot be located or is deceased, those persons who were adopted prior to 1977 must obtain a court order requiring the Department of Health to release information contained on the birth certificate.

Problem: Many adopted persons aged 65 and older are seeking information about their birth parents. It is costly and time-consuming for them to conduct a search, particularly considering that many of the birth parents are deceased.

Legislative solution: Amend Minnesota Statutes, Section 259.89 to allow the Department of Health to provide adopted persons aged 65 and older information contained on the original birth certificate unless the birth parent had filed an unrevoked affidavit stating they did not want the information disclosed.

N - Legislation passed in 1994 requires that an adoption petition be filed within two years of the date of placement. If it is not filed, the court must be notified. Currently, the supervising agency can recommend to the court that the court grant an extension of the deadline if it is necessary in order for the child to receive adoption assistance. Alternatively, the supervising agency can recommend removal of the child.

Problem: The court's choices are too limited. There are situations where the removal from the adoptive home would not be in the child's best interests.

Legislative solution: Amend Minnesota Statutes, Section 259.22, to allow the court to extend the time for filing the petition where it is in the child's best interest to do so and the prospective adoptive parents have agreed to a time line for finalizing the adoption.

ADOPTION ISSUES REQUIRING FURTHER WORK

The Committee struggled with several issues that were ultimately considered to be of such complexity and importance that continued evaluation and work are required before any legislative changes can be proposed. These issues relate to the amount of judicial discretion allowed in determining the best interests of the child, the birth mother's responsibility to notify the alleged father of an adoption plan, and the financing of adoption.

Judicial Discretion: Determining the Best Interests of the Child

The committee debated the amount of discretion a court has (or should have) to grant an adoption, based on the court's determination of the best interests of the child, when one or more statutory requirement has not been met. The committee recognized that two recent high profile cases, namely, "Baby Jessica" and "Baby Richard," raise a variety of issues regarding the rights of alleged fathers, the rights of biological parents to their children and the rights of children to have parents. Committee members believed that these issues need to be addressed, but were unable to agree that giving the court broad discretion to waive statutory requirements and determine cases solely on a "best interest" standard was the right solution. The issues presented the court frequently deal with specific legal rights of birth parents or adoptive parents and are too varied and complex for such universal authority. Some examples of questions raised by the committee include the following:

- Can an adoption proceeding occur when an adoptive placement was made but neither the birth parent nor the prospective adoptive parent knew that specific legal procedures must be followed?
- Should the court be able to waive statutory requirements when required documents are incomplete or missing? If so, under what circumstances?
- The child's birth father, whose consent is needed for the adoption but for some reason was not obtained, comes forward and challenges the adoption several years after it was granted. Should he have the automatic right to have the adoption vacated and obtain custody? Should the adoption be upheld? What if the birth mother, upon hearing of the birth father's efforts to parent now wants to change her mind and parent her child? What are the rights of the child versus the rights of the birth parents or the adoptive parents? Should the court have the authority to decide what is in the child's best interest and determine who the parent will be? If so, should the statutes give direction as to what factors must be considered? If that is to be the case, what factors should guide the court's decisions?
- Should an alleged birth father who has not exercised his right under current statutes be allowed the right to parent the child if he files a successful paternity suit prior to the adoption hearing? Should there be a redefinition of the rights of alleged birth fathers? What are the rights of the child versus those of a birth father who did not, or who may have been prohibited from, actively seeking to become involved in caring for the child? What level of discretion should the court have? What factors should guide the court's decisions?

Birth Mother's Responsibility to Notify an Alleged Father

The birth mother's responsibility to notify an alleged father of an adoption plan was one of the most controversial and hotly debated issues in the adoption bill passed by the 1994 Legislature. The issue cuts directly to the responsibilities and rights of birth mothers and fathers who are not married to one another and where the birth father has no legally defined responsibility. It also involves the child's rights to information about, or to be parented by, the biological father.

The 1994 law requires a birth mother making a direct adoptive placement to submit an affidavit identifying her efforts or efforts on her behalf to notify the alleged father of the adoptive placement. She is exempted if the child was conceived as the result of rape or incest or if notification of the alleged father reasonably could result in physical harm or severe emotional distress to the mother or the child.

Opponents of this provision believe it would deter birth mothers from making adoptive plans. Proponents believe the best interests of the child are served by obtaining information about the birth father and that by identifying birth fathers early in the process, the possibility of a challenge to the adoptive placement is reduced. The committee, in discussing the implications of this provision, raised more questions than answers and ultimately concluded that the issue had to be discussed within a broader context. Examples of some of the questions raised by the committee include:

- Whose rights are at stake?
- Does the child have a right to a father or information about the father?
- What should be the rights or responsibilities of alleged fathers?
- What if the birth mother makes a conscious effort to prevent the birth father from knowing about the pregnancy or the adoptive plan?
- Does the mother's right to privacy supersede the child's rights to medical or other information about the birth father? To being parented by the biological father?

Financing an Adoption

Prior to the late 1960's, the United Way and the State underwrote the costs of all adoptions except international adoptions. Public policy decisions over the past three decades increasingly shifted the cost of voluntary infant adoption to the adoptive parents. With the exception of the adoption of children under the guardianship of the Commissioner or children with special needs, where some financial assistance is available, there are no allowable state or federal tax deductions or any state or federal programs available to assist with adoption costs. Committee members recognized that:

- The cost of adopting an infant born in Minnesota has risen dramatically over the past 20 years.
- The cost of adopting a child born in another country can range from \$15,000 to \$25,000.

The subcommittee assigned to the issue recognized that the costs of adoption may prohibit couples and families of modest income from becoming adoptive parents. There were, however, significant differences of opinion expressed by various members. Some were worried that providing financial assistance to help adoptive parents meet the costs of adoption would be at the expense of providing funds and services to help poor people parent their children. Others felt that people should not be financially prohibited from becoming parents because of their ability to conceive. Although no specific legislative recommendations were made, the members expressed the belief that:

- No child should be barred from adoption simply because of a family's inability to pay; and
- Birth parents should be left no worse off financially after the adoption than before the adoption.

The committee also suggested some strategies for providing assistance to adoptive parents in meeting the costs. In considering the suggestions, the committee agreed that further discussion was needed before legislative changes could be recommended. The suggestions included:

- The use of state and federal tax credits or deductions to offset adoption costs;
- Extension of insurance benefits to cover costs of adoption, including costs of counseling birth parents; and
- The development of a needs-based state funded program to assist families in meeting adoption expenses.

The advisory committee also unanimously supported continued funding of the Adoption Assistance program. This federal and state funded program provides financial resources to assist adoptive parents with the additional costs of parenting a child with special needs. Without financial assistance, such children would likely not be adopted and thus would remain wards of the state.

Issues Not Addressed by the Advisory Committee

Time constraints, and to some extent the process itself, prevented the advisory committee from either raising or thoroughly discussing a number of issues. Committee members expressed the desire to continue to meet and address many of these concerns. Examples include:

- How, if at all, Minnesota Statutes should address adoption-related aspects of children conceived through the various forms of surrogate parenting;
- The adoption of a child by persons not married to the birth or adoptive parent;
- Whether the Commissioner of Human Services should be responsible for maintaining the adoption records of all child placing agencies;

- Whether there should be a legislative requirement that all single birth parents be advised of adoption as an option; and
- Amending the statute governing Minnesota's Adoption Assistance program to simplify the payment procedures when county agencies contract with a licensed child placing agency to find a home for a child under the Commissioner's guardianship.

Committee members also recognized that several efforts to address adoption issues on a national scale warranted review. First, the proposed Uniform Adoption Act, drafted by the National Conference of Commissioners on Uniform State Laws, represents an attempt to enact uniform adoption laws in all 50 states. Although controversial, it does offer a model for addressing some difficult issues such as the rights of alleged birth fathers and the broader area of judicial discretion. Second, the Hague Accord outlines a structure which, if ratified by the United States, will govern international adoptions. Therefore the articles of the Hague Accord could impact the states' responsibilities in international adoptions.

Finally, some other concerns were raised, but were determined to be outside of the committee's ability to address. Examples include:

- identifying the legal rights of birth fathers who are or were illegal aliens, and
- getting other states to uniformly follow the requirements of the Interstate Compact on the Placement of Children.

FUTURE ACTION

The advisory committee accomplished a great deal in a short period of time. Committee members demonstrated that people with widely diverse and often conflicting interests can engage in a productive dialogue and can work together toward recommending changes that benefit children, birth parents and adoptive parents.

The Commissioner and members of the committee agree that more work needs to be done. Thus the advisory committee will be reconvened after the 1995 legislative session. The committee will continue to examine the unresolved issues and recommend further changes to the adoption laws. The Commissioner intends to initiate legislation in 1996 which will include the recommendations contained in this report as well as those developed by the advisory during the summer and fall of 1995.

Adoption Advisory Committee

Ms. Mary Abbett
Wellspring Adoption Agency
3840 Washburn South
Minneapolis, MN 55410

Ms. Judith Anderson
Minn. Adoption Resources Network
P.O. Box 39722
Minneapolis, MN 55439

Ms. Connie Caron
Region VIII North Welfare Dept.
607 West Main
Marshall, MN 56258-3099

Mr. Warren Chaffee
Dakota Cry. Social Services
14955 Galaxie Avenue West
Apple Valley, MN 55124-8581

Mr. Lester Collins
Executive Director
Council on Black Minnesotans
426 Wright Building
2233 University Avenue
St. Paul, MN 55114

Mr. William A. Cooper
TCF Financial Corporation
801 Marquette Avenue
Minneapolis, MN 55402-3475

Ms. Patricia Escobar
Council on Asian/Pacific Minneso-
tans
205 Aurora Avenue, #100
St. Paul, MN 55103

Mr. Mark Fiddler
Indian Child Law Center
1433 East Franklin
Suite 18A
Minneapolis, MN 55404

Ms. Susan Freivalds
Executive Director
Adoptive Families of America
3333 Highway 100 North
Minneapolis, MN 55422

Honorable Isabel Gomez
Judge of District Court
Hennepin County Government
Cntr.
300 South 6th Street
Minneapolis, MN 55487

Ms. Muriel Hinich
1681 Portland Avenue
Minneapolis, MN 55104

Ms. Liz Keller
Lutheran Social Service of Minnesota
2414 Park Avenue
Minneapolis, MN 55404

Ms. Regina Lai
Children's Hope
P.O. Box 71
Shakopee, MN 55379

Ms. Janice Linstrom
Omsbudsperson for Indian Families
1450 Energy Park Drive, Suite 106
St. Paul, MN 55108

Ms. Mary Mason
4012 Lynn Avenue
Edina, MN 55416

Ms. Anne McManus
HOPE Adoption and
Family Services International, Inc.
421 South Main St.
Stillwater, MN 55082

Ms. Peggy Meyer
Resources for Adoptive Parents
4099 Brookside Ave. South
Minneapolis, MN 55416

Ms. Laverne Noll
15420 N.E. 89th Street
Elk River, MN 55330

Mr. David Pilgrim
Children's Home Society of Minn.
2230 Como Avenue
St. Paul, MN 55108

Honorable Charles Porter
Juvenile Court
Juvenile Justice Center
626 South 6th Street
Minneapolis, MN 55415-1573

Ms. Patricia Ray
Ombudsperson
Spanish Speaking Affairs Council
1450 Energy Park Drive, Suite 106
St. Paul, MN 55108

Ms. Lauri Ruhl
Department of Human Services
Division of Licensing
444 Pine Street
St. Paul, MN 55155-3842

Mr. Rob Sauer
Attorney General's Office
445 Minnesota Street
NCL Tower Suite 900
St. Paul, MN 55101-2127

Ms. Ann Sinott
Crossroads Adoption Services
4620 West 77th Street
Suite 105
Minneapolis, MN 55435

Ms. Sandra Sperrazza
6429 Mendolssohn Lane
Edina, MN 55343

Ms. Mary Lou Stewart
Adoption Option Committee, Inc.
12500 Lake Street Extension
Minnetonka, MN 55305

Ms. Mary Ann Sullivan
Catholic Charities
1600 University Avenue
St. Paul, MN 55104

Mr. Art Treadwell
Ramsey County Human Services
160 East Kellogg, 55E
St. Paul, MN 55105-1499

Ms. Monica "Katie" Turner
Minnesota Chippewa Tribe
1433 East Franklin Suite 18A
Minneapolis, MN 55404

Ms. Judith Vincent, Esq.
Attorney at Law
111 Third Avenue South
Minneapolis, MN 55401

Ms. Karen Wahlund
Program Manager
Hennepin Cty. Bureau of Social Svcs.
525 Portland Avenue, Level 6
Minneapolis, MN 55415

Mr. Wright Walling
Attorney at Law
701 Fourth Avenue South, Suite 650
Minneapolis, MN 55415-1873

Ms. Mary Jane Westra
Route 5
P.O. Box 166
Fergus Falls, MN 56537

Ms. Judith Yantos
2320 Northeast Argonne Drive
Columbia Heights, MN 55421

Interested Parties

Mr. Josh Downham
House Admin. Asst.
443 State Office Building
St. Paul, MN 55155

Mr. David Giel
Senate Counsel and Research
G-17 Capitol
St. Paul, MN 55155

Senator Sheila Kiscaden
143 State Office Building
St. Paul, MN 55155

Ms. Andrea Lundgren
2451 15th Street N W
New Brighton, MN 55112

Ms. Nichelle McDonald
360 Southdale Center
6600 France Avenue South
Edina, MN 55341

Ms. Deb McKnight
House Legislative Analyst
600 State Office Building
St. Paul, MN 55155

Ms. Peg Meek
Attorney General's Office
NCL Tower
445 Minnesota Street
St. Paul, MN 55101

Ms. Jacqueline Miller
Attorney at Law
250 Prairie Drive, #317
Eden Prairie, MN 55344

Ms. Susan Moore
614 Portland
Suite 205
St. Paul, MN 55102-2223

Senator Pat Piper
G-9, State Capitol
St. Paul, MN 55155
Attn: Blaire Hartley

Mr. Gregory R. Troy, P.A.
Roseridge Office Bldg., Suite 211
1611 West County Road B
Roseville, MN 55113

Ms. Joan White
Senate Counsel
G-17 Capitol
St. Paul, MN 55155