

Responding to Rehoming: Protecting Children & Strengthening Adoptive Families

The Center for Adoption Support and Education (C.A.S.E.), Child Welfare League of America (CWLA), Congressional Coalition on Adoption Institute (CCAI), Dave Thomas Foundation for Adoption (DTFA), Donaldson Adoption Institute (DAI), North American Council on Adoptable Children (NACAC) and Voice for Adoption¹ (VFA) affirm the need for greater protections for adopted children nationwide, through improved policies to prepare families for adoption and increased and coordinated investments in support services after adoption.

Background

In late 2013, a Reuters' [investigation](#) on the practice of parents' "rehoming" their adopted children through online forums resulted in public outcry and fast reactions by state legislators to protect children from being placed with strangers without any state agency or court approval and oversight. The report, coupled with the high-profile public case of an Arkansas state Representative transferring guardianship of his two adopted daughters to a man who later sexually assaulted one of the children, prompted legislation banning parents from transferring custody of their children outside the legal system. These cases of adopted children and youth are heartbreaking; no child should ever go through agony like this. So far, five states have passed legislation specifically addressing adoption rehoming, including Wisconsin, Colorado, Louisiana, Florida, and Arkansas. Laws criminalize acts such as placing advertisements to adopt or place a child for adoption and transferring the care and custody of a child without going through the required legal processes (exceptions include children's service agencies).²

We know the vast majority of adoptive families are committed to their sons and daughters, and do all they can to keep their children safe and sound, helping them overcome early losses or traumas. However, adoptive families often encounter hurdles that are unique and challenging, and can sometimes lead to an adoption being disrupted or dissolved. Adoption disruption occurs when an adoption is ended before the finalization process has been legalized. These children return to the child welfare system or are placed with new adoptive parents. Estimates suggest that about nine to fifteen

¹ Voice for Adoption is a coalition whose Board is composed of Adopt America Network, Adoption Exchange Association, Adoption Exchange Inc., Child Welfare League of America, Children Awaiting Parents, Consortium for Children, Family Builders Network, Kinship Center – a Member of Seneca Family of Agencies, Lilliput Children's Services, National Adoption Center, New York Council on Adoptable Children, North American Council on Adoptable Children, Spaulding for Children Michigan, and Three Rivers Adoption Council

² Young, A. (2014, September 18). "Synopsis of State Laws Regarding the Practice of Private Re-Homing". *Center for Adoption Policy*. Retrieved from: <http://www.adoptionpolicy.org/pdf/10-4-14%20Center%20for%20Adoption%20Policy%20Rehoming%20Research%20Synopsis%20State.pdf>

percent of adoptions disrupt.³ Adoption dissolution occurs when legal ties between the adopted child and adoptive parents are severed after the adoption is finalized. Though more difficult to track, studies report that dissolution occurs between one and five percent. More recent data from the Children’s Bureau indicated that of the 25,000 children (13 and older) that entered congregate care as a first placement in 2008, over 1000 had had been adopted prior to entering foster care. Most of these children had a diagnosed mental health condition or a child behavioral problem.⁴ Factors associated with unsuccessful adoptions include the presence of emotional and behavioral issues, the age of the child being adopted, a lack of social support for adoptive families, insufficient information provided about the child, staff discontinuities, and not having sufficient services provided.⁵

Our Position

The Term “Rehoming” Related to Adoption:

The language we use is important because it helps to mold perception and shape our understanding and response to challenges facing vulnerable children, youth, and families. The term “rehoming” has long been associated with pet owners seeking new homes for their animals. Co-opting this term commonly used in connection with pets to describe underground child custody transfers suggests a benign practice and should not be used in the child welfare field as we work to positively impact human lives. The term “rehoming” needs to be removed from our vocabulary for the use of any practice related to children and families.

The elements of “unregulated child custody transfers” seem generally to encompass the practice of parents advertising their adopted children online to transfer custody of them to non-vetted strangers without public child welfare agency or court approval and oversight. The *Reuters* investigation found that these unregulated transfers are usually made through power of attorney documents – *which are generally used to delegate limited decision-making authority to relatives or known adults for a temporary period* – for permanent placement of parents’ adopted children with strangers.

“Unregulated custody transfer” is a more suitable term that implies the intent of the action, which is to forego the responsibility of parenting by intentionally circumventing the child protection agencies and courts set up to be the proper channels for approvals of such custody transfers. We call on legislators and those of us in the field to stop using the term “rehoming” for all practices related to children.

Current Policies and Laws Governing this Practice:

Existing federal and state definitions of child abuse and neglect already govern unregulated custody transfer of a child, including abandonment, creating substantial risk of harm, and failing to provide care that result in a threat to child safety, health and well-being. The federal government defines child abuse and neglect under the Child Abuse and Treatment Act (CAPTA) and individual states further define in more detail various forms of maltreatment. Almost every state and territory provides civil definitions of child abuse and neglect in statute, which require mandated reporting and allow child welfare systems to intervene when a child’s safety is threatened.

³ Donaldson Adoption Institute, “Keeping the Promise: The Case for Adoption Support and Preservation (ASAP)” (April 2014), available at: http://adoptioninstitute.org/pubs_cat/adoption-support-and-preservation-services/

⁴ U.S. Department of Health and Human Services, Administration for Children and Families. (2015, May 13). "A National Look at Congregate Care". *Children's Bureau*, Washington D.C. Retrieved from: http://www.acf.hhs.gov/sites/default/files/cb/congregatecare_brief.pdf

⁵ Child Welfare Information Gateway. (2012, June). "Adoption Disruption and Dissolution". *Children's Bureau*. Retrieved from: https://www.childwelfare.gov/pubPDFs/s_disrup.pdf

For example, 17 states and the District of Columbia include child abandonment in the civil definition of abuse or neglect, triggering mandated reporting requirements. Another 18 states provide civil definitions for abandonment that are separate from neglect, which may not require mandated reporting,⁶ illustrating an opportunity for states to strengthen their existing child abuse and neglect laws. Existing definitions of abandonment such as an articulated intent to forego parental responsibility and willfully surrendering physical custody for a designated amount of time without a firm intention to resume physical custody, already are implicated in unregulated custody transfer cases that have been exposed.

Indeed, as the federal Department of Health and Human Services, Associate Commissioner of the Children's Bureau, Joo Yeun Chang, stated in [testimony](#) before the Senate Committee on Health, Education, Labor and Pensions, Subcommittee on Children and Families in July 2014:

“Parents have a legal responsibility to protect and care for their children. Delegating responsibility for a child to a potentially unfit and unsafe individual through a power of attorney does not insulate parents from state laws regarding imminent risk of serious harm... The practice of re-homing is unacceptable, is clearly an act of abuse and neglect, and should receive the full attention of child welfare agencies.”

Reporting and Data Collection Challenges:

The act of unregulated custody transfer itself does not fall outside the scope of the child welfare purview, rather, the reporting and intervening in such cases is the true challenge, because these practices intentionally circumvent state child welfare agencies and courts. Enforcing laws against unregulated custody transfers after the fact will not address the larger early detection and reporting issues. It appears that the only statistics about the frequency of unregulated custody transfers comes from the *Reuters* September 2013 investigative report. To understand and address the scope of the problem, we must examine and strengthen current child abuse reporting channels to specifically capture instances of online child maltreatment activity like unregulated custody transfers and mandatory reporting requirements.

Comprehensive national data on adoption disruption and dissolution are also lacking and present an ongoing challenge. States will need technical support in gathering and reporting this data to comply with the new data collection requirements on adoption disruption and dissolution in the Preventing Sex Trafficking and Strengthening Families Act of 2014 (Public Law 113-183). Regulations are forthcoming as a result of the U.S. Department of Health and Human Services' (HHS) Administration for Children and Families February 9, 2015 Notice of Proposed Rulemaking regarding the Adoption and Foster Care Analysis and Reporting System (AFCARS).

⁶ Child Welfare Information Gateway. (2014, June). "Definitions of Child Abuse and Neglect". *Children's Bureau*. Retrieved from: <https://www.childwelfare.gov/pubPDFs/define.pdf>

Variance in Preparation for Adoption, by Type of Adoption:

The variation in scope and requirements of federal and state adoption laws, regulations, and practices that govern the different types of adoption – private domestic, foster care, and intercountry – contributes to the challenges of effective prospective parent training and education about children’s past traumas. Many of the issues that adoptive families face – both in the preparation and readiness for adoption, and the potential challenges that might arise after finalization – are much the same whether a family adopts internationally or domestically. The regulations for vetting, preparing, and supporting parents for domestic adoption vary, though several states use nationally recognized curriculum for foster and adoptive parents (*see Appendix*).

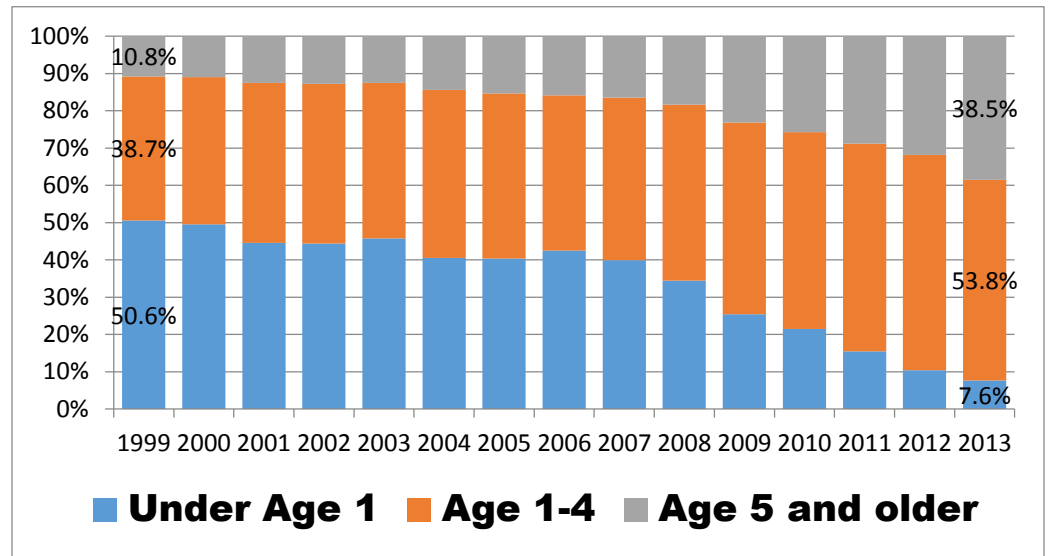
Many countries of origin are increasingly limiting intercountry adoption to older children or those who may have special needs. In addition, many children are remaining in orphanages for longer periods of time prior to family placement, and have increased risk factors for emotional, behavioral and developmental difficulties. In fact, as U.S. Department of State data shows, the number of children being adopted at older ages has dramatically increased in recent years. In 1999, 50 percent of children adopted through intercountry adoptions were under the age of one. In 2013, only 7.6 percent of children adopted internationally were infants, and nearly 40 percent were age 5 or older.

In spite of the similarities in the children being adopted, there is great variance in the preparation of families who adopt from U.S. foster care versus families who adopt internationally. The regulations for preparing parents for domestic adoption vary by state; however, several states use nationally recognized curriculum for foster and adoptive parents. The Hague Convention requires only 10 hours of training for international adoptions. The scope of adoptions have changed over the years and yet the policies that govern preparing families have not kept up with the changing trends. Agencies should be responsible for training on the topics related to these challenges, including the real circumstances and parenting skills required to nurture children with special needs and those who have been exposed to trauma. Strengthening the preparation and training received by families, prior to the adoption finalization, can lead to improvements in parents’ ability to assess their readiness for adoption and build skills needed to raise children with special needs or previous trauma exposure.

Protecting Children by Supporting Families After Adoption:

Although we have seen a positive response from legislators and the public to prevent the abandonment of adopted children, we are collectively concerned that the push to create such specific legislation will serve to further alienate and stigmatize adopted children and their families, as well as

Intercountry Adoptions to the U.S. by Age



detract attention from the real issues faced by these families. One of the things the *Reuters* investigation showed is the intense need for more and effective pre- and post-adoption services. Most adoptive families, of course, remain committed to their children, but they may also be struggling to address the long-term effects of trauma. The vast majority of adopted children in the United States have legacies of neglect, abuse, loss and trauma, and although research shows adoption or guardianship is ultimately in their best interests, it also shows that at least half of all adopted children will require specialized services to address mental health needs after adoption. Despite this reality, a nationwide review of publicly funded post-adoption services found that only 17 states had a substantial array of services.

Rather than creating legislation that will address the back end of the problem – punishment after the crime – we need to invest our time, energy, and resources into better services and supports so that families do not turn to such harmful and risky practices. These services include better mental health services and treatments for children who are recovering from past traumas, as well as supports for parents to better care for and understand their adopted children. When there are cases in which adoptions need to be dissolved, families and children need to be supported through this process by the appropriate authorities in order to maintain the safety and well-being of children, and facilitate their permanency.

Progress Forward & Current Legislation

We applaud U.S. congressional leaders and the U.S. Department of Health and Human Services for the following initiatives outlined below.

- **Passage of the Preventing Sex Trafficking & Strengthening Families Act ([Public Law 113-183](#))**—Included several adoption data tracking provisions.
- **Request for a Government Accountability Office report on the practice of unregulated custody transfer**—Commissioned by congressional leaders and anticipated to be published in the fall of 2015.
- **Creation of a Federal Interagency Working Group**—The U.S. Department of State, U.S. Department of Health and Humans Services, U.S. Department of Justice and the U.S. Department of Homeland Security were asked by Congress for input and recommendations to address the “practice which has come to be known as rehoming”.
- **Federal Children’s Bureau [discretionary grants](#)**—Currently being administered as cooperative agreements implementing key strategies to serve families post-adoption and train mental health professionals on adoption competency.
 - National Quality Improvement Center for Adoption/Guardianship Support and Preservation
 - National Adoption Competency Mental Health Training Initiative
 - [National Electronic Interstate Compact Enterprise](#)—national project to improve data tracking of interstate placements of children through online electronic case management service.

Pending Legislation and Initiatives

- **ACF/CMS Demonstration Project**—An initiative in the FY2016 budget to build the capacity for child welfare and Medicaid to collaborate and better meet the wellbeing needs of children in foster care and those served under the Medicaid program. This is a five-year collaborative demonstration, involving the Administration for Children and Families (ACF) and Centers for Medicare and Medicaid Services (CMS).
- **Senator Ron Wyden’s Draft Child Welfare [Legislative Proposal](#)**—Amends title IV-E to allow for state reimbursement of time-limited evidence-informed practices that prevent entry into foster care and keep families together, including adoptive families. Increases annual appropriations of the Promoting Safe & Stable Families program by \$470 million per year and calls for the funds to be mandatory. Establishes national benchmarks for improved outcomes and rewards states for achievements. Provides funding for research and technical assistance to expand evidence-based prevention and post-permanency interventions.
- **[S.369](#) Supporting Adoptive Families Act**—A Senate bill to amend title IV-B of the Social Security Act to promote pre-and post-adoption support services. The bill would extend existing federal dollars for promotion and support services to adoptions from other countries as well as domestic adoptions.
- **[H.R.2068](#) Supporting Adoptive Families Act, companion bill**—Similar to S.369, however, in addition, this House bill amends the PROTECT Our Children Act of 2008 to expand the scope of the Internet Crimes Against Children Task Force, to combat child exploitation. This includes the monitoring of the transfer of permanent custody or control of a minor circumventing required legal procedures.

Recommendations

There is more we can do to prevent unregulated custody transfers from happening in the first place, which is where our attention should be focused, rather than solely on the reprehensible acts themselves. We believe parents who abdicate their parental responsibilities outside the legal system should be held accountable under existing child abuse and neglect laws, yet the true long-term protection and well-being of these children lies in the preparation of parents for adoption and support of adopted children in their new families. The reality is that many adopted children will continue to have challenging emotional issues that simply finding another family will not erase. Our commitment has to be in sustaining families long-term, ensuring children are safe by equipping parents with critical knowledge during preparation, and providing opportunities and resources to address the challenges that might arise after adoptions take place. Until we invest in what will prevent unregulated custody transfers from occurring – including improved screening of prospective parents, increased preparation and training, and increased access to quality post-support services – we are missing the opportunity to keep adopted children safe from harm. We collectively encourage federal policymakers to keep shifting the paradigm away from simply placing children in families for adoption to providing the supports that families need to raise children to healthy adulthood.

As you know, the issues surrounding this harmful practice are nuanced and multifaceted and in order to keep adopted children safe, this issue deserves a comprehensive approach. We have outlined four key areas where the problems lie and where policy should be strengthened, these areas include: reporting, preparation, provision of quality post-placement services, and access to such services.

Reporting

- **Recommendation #1:** State child protection laws should apply to all parents and their children, whether biological, kin, or adopted. States should examine existing definitions of child abuse, neglect, and/or abandonment to identify how unregulated custody transfers already fits within current definitions.
- **Recommendation #2:** Examine and strengthen current child abuse reporting channels to specifically capture instances of online child maltreatment activity like unregulated custody transfers. Along with new financial assistance from the federal government invest and expand training of state mandatory reporters to better detect and reports instances of this form of child abuse and neglect.

Preparation

- **Recommendation #3:** Establish minimum training requirements and topics for all adoptions. Increase the amount of hours and the training content quality required under the Hague Convention on Intercountry Adoption to align with domestic training curriculums and requirements to ensure families adopting internationally are equally prepared for the potential challenges of adopting children with special needs.
- **Recommendation #4:** Establish national minimum uniform home-study standards that apply to both domestic and international adoptions.

Provision of Quality Post-Adoption Services

- **Recommendation #5:** Provide incentives to states to establish public-private partnerships to implement quality community based post-adoption service programs using evidence-informed and promising practices that are shown to be effective in meeting the needs of families to both prevent and respond to crisis. Protect and expand current federal investments in post-adoption services by making the Promoting Safe & Stable Families Program fully mandatory spending. Strengthen and increase funding under the Adoption Opportunities Act to further develop the quality of post-adoption service programs in states.
- **Recommendation #6:** Invest in longitudinal research to support the development of evidence-based practices to meet the behavioral, developmental, and psychological health needs of adopted children and youth.

Access to Post-Adoption Support Services

- **Recommendation #7:** Develop a database of post-adoption services in each state, including adoption competent mental health providers, and provide a clearinghouse for such information on websites offered by the federal Children's Bureau and U.S. Department of State.
- **Recommendation #8:** Prohibit requirements that adoptive parents (without findings of maltreatment) must relinquish custody of their children to access state-funded mental health services or short-term therapeutic residential treatment. Convene a joint meeting between HHS, CMS, and states, to examine state-by-state policy implications for this population, with the intended goal of developing better coordination of funding and services (which may be available but accessible to adoptive families) and providing technical assistance, training, and strategies to address the needs of these families.

Appendix

	Child Welfare Adoption	Hague International Adoption	Non-Hague Adoption
Home Study Process	<ul style="list-style-type: none"> • Conducted by Child Welfare Agency personnel ⁱ • Variations across states and jurisdictions ⁱ • Purposes: (1) to educate and prepare adoptive families for adoption; (2) to gather information about the family for the purposes of matching; (3) to evaluate the fitness of the family ⁱ • Some states have same standard for foster and adoptive parents, others have progressive format and parents undergo further training become adoptive families ⁱ • The Structured Family Analysis Evaluation (SAFE), is a home study format used in a number of states ⁱ • Interstate Compact for on the Placement of Children (ICPC) For Interstate Adoptions – the adoptive parents home state conducts the home study, which must be approved by the other state ⁱⁱ 	<ul style="list-style-type: none"> • The home study does not have to be performed by accredited adoption agencies, but must be approved by an accredited agency - the study must be conducted according to the Hague convention ⁱⁱⁱ • The individual conducting the home study must be authorized/licensed to complete home study in state they practice, be supervised, and meet requirements for home study preparers ⁱⁱⁱ • Wide variability of home study practices internationally and across US jurisdictions ^{iv} • SAFE is not used widely in intercountry adoptions though a template has been developed by the Consortium for Children for its use in intercountry adoptions ^{iv} • Home studies must follow state laws and federal regulations ^v • Other countries may have additional requirements for home studies ^{vi} 	<ul style="list-style-type: none"> • Home studies can be conducted before parents decide which country to adopt from ⁱⁱⁱ • Home studies must follow state laws and federal regulations ^v • Home study must be conducted by an adoption provider licensed in their state, but does not have to be Hague-accredited or supervised or approved by such an agency ⁱⁱⁱ • Other countries may have additional requirements for home studies ^{vi}
Parental Preparation	<ul style="list-style-type: none"> • The regulations for preparing parents for adoption vary by state. As of 2008, state regulations range from requiring 6 to 45 hours of parent training ^{vii} • In 2008 7 states required 10 hours of training or less, 9 states required between 11 and 20 hours of training, 28 states required 21 to 30 hours of training, and 2 states required over 30 hours of training ^{vii} • Several states use nationally recognized curriculum for foster and adoptive parents, including PATH, PRIDE, and PS-MAPP curricula. ^{vii} 	<ul style="list-style-type: none"> • The adoption agency must provide prospective parents with at least 10 hours of preparation and training before the parents travel to adopt the child or the child is placed with family ^{viii} • The Hague convention includes a list of topics that must be addressed, including the intercountry adoption process; information about the country of origin; risk factors associated with adopted and institutionalized children and the country of origin; information about attachment and emotional disorders; and the individual child's history 	<ul style="list-style-type: none"> • Same as Hague convention cases, though country of origin might have extra requirements ⁱⁱⁱ
Post Placement Services	<ul style="list-style-type: none"> • May qualify for federal and state adoption assistance – many children adopted from public agencies qualify. Adoption assistance agreements with states designate which types of services will be reimbursed, and often include adoption assistance payments ^{ix} 	<ul style="list-style-type: none"> • The adoption agency must monitor the child's placement before the adoption is finalized and efforts to arrange for counseling if the placement is in crisis before finalization. The agency is responsible for making another placement if the adoption is disrupted (before finalized adoption) • The adoption agency does not have to provide post adoptive services, but does have to let parents know whether or not it will be providing services post adoption and if the adoption dissolves.^x 	<ul style="list-style-type: none"> • As of July 14, 2014 same as Hague-convention cases

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- ¹ Crea, T., Barth, R., and Chintapalli, L. (2007). "Home Study Methods for Evaluating Prospective Resource Families: History, Current Challenges, and Promising Approaches." *Child Welfare*, 86(2), 141-159.
- ² Child Welfare Information Gateway. (2014). "Home Study Requirements for Prospective Foster Parents". Retrieved from: <https://www.childwelfare.gov/pubPDFs/homestudyreqs.pdf>
- ³ Child Welfare Information Gateway. (2014). Intercountry Adoption From Hague Convention and Non-Hague Convention Countries". Retrieved from: <https://www.childwelfare.gov/pubPDFs/hague.pdf>
- ⁴ Crea, T. (2009). "Intercountry adoptions and domestic home study practices: SAFE and the Hague Adoption Convention." *International Social Work*, 52(5), 673-678.
- ⁵ Child Welfare Information Gateway. (2010). "The Adoption Home Study Process". Retrieved from: https://www.childwelfare.gov/pubpdfs/f_homstu.pdf
- ⁶ U.S. Citizenship and Immigration Services. (2011). "Orphan Home Study Guidelines". Retrieved from: <http://www.uscis.gov/adoption/home-study-information/orphan-home-study/orphan-home-study-guidelines>
- ⁷ National Resource Center for Family-Centered Practice and Permanency Planning. (2008). "Foster Parent Pre-Service Training". Retrieved from: http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/policy-issues/Foster_Parent_Preservice_Training.pdf
- ⁸ 22 C.F.R. § 96.48. Retrieved from: <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=cd371ac8decfb13aa0b6d57902806813&r=PART&n=22y1.0.1.10.49#sp22.1.96.a>
- ⁹ Child Welfare Information Gateway. (2012). "Finding and Using Postadoption Services". Retrieved from: https://www.childwelfare.gov/pubPDFs/f_postadoption.pdf
- ¹⁰ 22 C.F.R. § 96.51. Retrieved from: <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=cd371ac8decfb13aa0b6d57902806813&r=PART&n=22y1.0.1.10.49#sp22.1.96.a>