



# Child Welfare Information Gateway

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STATE  
STATUTES  
SERIES

Current Through  
June 2006

## Use of Advertising and Facilitators in Adoptive Placements

Many people choose to adopt, and many birth parents choose to place their children for adoption, without the involvement of an agency. These placements are known as private placements or independent adoptions. Private placement is often preferred by people who want to adopt newborn infants from the United States and avoid the often years-long waiting lists of adoption agencies.

The challenge for prospective adoptive parents in a private placement is locating a child who is appropriate for their family or finding birth parents willing to place their child for adoption. Some parents choose to advertise their interest in adopting, while others may choose to utilize the services of adoption facilitators or intermediaries. In an effort to protect

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To find statute information for a particular State, go to [www.childwelfare.gov/systemwide/laws\\_policies/search/index.cfm](http://www.childwelfare.gov/systemwide/laws_policies/search/index.cfm)

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at [www.childwelfare.gov/systemwide/laws\\_policies/statutes/advertisingall.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/advertisingall.pdf)

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Administration on Children, Youth and Families  
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## Use of Advertising

the interests of all parties, many States have enacted laws that either prohibit or regulate the use of advertising or facilitators for private adoptive placements.

Advertising is defined as the publication in any public medium, either print or electronic, of either an interest in adopting a child or the availability of a specific child for adoption. This can include newspapers, radio, television, the Internet, billboards, or print flyers. Approximately 26 States currently have laws that in some way limit or regulate the use of advertising in adoptive placement.<sup>1</sup>

### States That Permit Adoption Advertising

Connecticut specifically allows advertising by birth parents and prospective adoptive parents. An additional eight States allow advertisement by agencies and other entities such as attorneys (in Florida), crisis pregnancy centers (Louisiana), birth parents (Nebraska), facilitators (North Carolina), and prospective adoptive parents who have favorable preplacement assessments or home studies (North Carolina, Oklahoma, Oregon, Washington, and Wisconsin).<sup>2</sup> Georgia allows the use of public advertising by agencies only; individuals such as birth parents and prospective adoptive parents may exchange information by private means only, such as letters or phone calls.

### States That Prohibit Adoption Advertising

Two States (Alabama and Kentucky) prohibit any use of advertising by any person or entity. Another 12 States prohibit advertising by anyone other than the State department or a licensed agency.<sup>3</sup> Utah specifically prohibits advertising by attorneys, physicians, or other persons. In Virginia, no person or agency may advertise to perform any adoption-related activity that is

<sup>1</sup> The word *approximately* is used to stress the fact that the States frequently amend their laws. This information is current only through June 2006. The 26 States include Alabama, California, Connecticut, Delaware, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Texas, Utah, Virginia, Washington, and Wisconsin.

<sup>2</sup> For more information about preplacement assessments, see Child Welfare Information Gateway's *The Adoption Home Study Process*, at [www.childwelfare.gov/pubs/f\\_homstu.cfm](http://www.childwelfare.gov/pubs/f_homstu.cfm).

<sup>3</sup> California, Delaware, Idaho, Kansas, Maine, Massachusetts, Montana, Nevada, New Hampshire, North Dakota, Ohio, and Texas.

## Use of Facilitators or Intermediaries

prohibited by State law, and a physician, attorney, or clergyman may not advertise that he or she is available to make recommendations for adoptive placement, as that is also an activity that is prohibited by law.<sup>4</sup>

In an independent or private placement adoption, a person or organization will often act as an intermediary (or facilitator) to match up or bring together a prospective adoptive parent with a birth mother or birth parents wishing to place a child. An intermediary or adoption facilitator is any person or entity that is not an approved or licensed agency that acts on behalf of any birth parent or prospective adoptive parent in connection with the placement of the child for adoption. In an effort to ensure that no person, either the intermediary or a member of the birth family, profits from the placement of a child, approximately 34 States and the District of Columbia have laws that regulate the use of intermediaries or facilitators.<sup>5</sup>

### States That Prohibit the Use of Facilitators

Approximately two States (Delaware and Kansas) strictly prohibit any use of facilitators or intermediaries. Five States prohibit their use by restricting the placement of children to licensed agencies only (in Georgia, Montana, Nevada, New Mexico, and Oregon). Kentucky, Massachusetts, Minnesota, Nebraska, New York, and the District of Columbia restrict the placement of children to either an agency or a member of the child's birth family. Ohio and Oklahoma limit placements to an agency, family member, or attorney.

### States That Regulate the Activities of Facilitators

Twelve States regulate the activities of intermediaries by limiting the compensation that they can receive.<sup>6</sup> It is illegal for these persons or agencies to receive any payment for the placement

<sup>4</sup> Virginia law prohibits payment for making an adoptive placement, except for compensation for specific services such as agency fees, medical or legal expenses, or other reasonable expenses connected with the adoption process.

<sup>5</sup> Alabama, California, Colorado, Delaware, Florida, Georgia, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and West Virginia.

<sup>6</sup> Alabama, Colorado, Louisiana, Maryland, Missouri, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and West Virginia.

of the child; reimbursement for actual medical or legal services is the only payment that they can receive. Eight States allow the use of adoption facilitators, but detail in statute the activities they are permitted or the services they are required to offer.<sup>7</sup>

These requirements may include:

- Providing written information about the adoption process to all parties (in California, Florida, Michigan, and Washington)
- Providing to the adopting parent any available background information about the child's birth parent (in California, Michigan, and Pennsylvania)
- Making sure that the adopting parents have completed favorable home studies (in New Jersey and Pennsylvania)
- Reporting to the court all fees and expenses paid (in California, Florida, and Pennsylvania)

In Florida, where adoption facilitators are frequently attorneys, the law requires the facilitator to obtain all necessary consents, file petitions and affidavits, and serve notices of hearings. In North Carolina and Vermont, the law explicitly states that a parent or guardian must personally select a prospective adoptive parent, and the role of a facilitator is limited to either assisting the birth parent in evaluating that choice or assisting a prospective adoptive parent in locating a child who is available for adoption.

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

<sup>7</sup> California, Florida, Michigan, New Jersey, North Carolina, Pennsylvania, Vermont, and Washington.