Woodside, Ardyce
Development of Adoption Regulation (laws) in the State of Iowa.

DEVELOPMENT OF ADOPTION REGULATION (LAWS)

IN THE STATE OF IOWA

Plan B Report

Social Work 293 - 9 Credits

In Partial Fulfillment of the Requirements
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of
Master of Arts in Social Work

Advisor, Mr. Richard G. Guilford

Ardyce Woodside

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CHAPTER I

INTRODUCTION

This study of the development of adoption regulation in the State of Iowa is presented as partial fulfillment of the requirements for the degree of Master of Arts, Plan B.

The intent of the study is to ascertain the development of legislation pertaining to adoptions in Iowa, to learn something of how these legislative changes came about, to outline the administration of the current laws, to present some data regarding the scope of the adoption program in Iowa, and to draw some conclusions and make some recommendations regarding Iowa's adoption program.

In order to accomplish these objectives, a study has been made of the various compilations of Iowa laws, from the original 1851 codification to the present Code of Iowa, 1946. All laws relating to adoption itself have been carefully studied, as well as other laws which have some bearing on the program. Some of the Iowa Supreme Court decisions have also been studied, and attention has been given both to formal and informal opinions of the Iowa Attorney-General. The formal opinions in Iowa are formulated by the attorney-general and his staff of legal assistants and stand as law until successfully challenged in court. An informal opinion is written by an assistant to the attorney-general and is looked upon as having less authority than the formal opinion.

In order to learn something of the influences which brought about the changes in legislation, the writer has studied the available records of the Iowa Legislative Council and the Child Welfare Legislative Committee, two organized groups which have in recent years made some efforts to secure improvement of social welfare legislation, including that relating to adoption. Individuals active currently, or in the past, in these groups were also interviewed regarding the plans and activities of the groups in behalf of adoption. The report of Governor Kendall's Commission on Child Welfare has also been perused and at least a portion of the newspaper releases pertinent to the subject have been located. While there have not been many of the latter, there is evidence that the press definitely has attempted to exert some influence on the legislators at various times.

The interpretation of the administration of the legislation has been obtained from several sources: Code of Iowa, 1946, The Employees' Manual and County Handbook of Procedure (State of Iowa), circular letters sent by the State Department of Social Welfare of Iowa to the county welfare departments, forms and outlines available from the State Department of Social Welfare for the use of social workers in preparing studies for the court, interviews with State Department of Social Welfare and private agency personnel, and some of the

unpublished records of the State Department of Social Welfare.

The State Department of Social Welfare was the sole source of data regarding the scope of adoptions in Iowa. Annual reports of the department since 1938 and some unpublished data gave the figures which are used.

The final chapter of the study contains observations of the writer, drawn primarily from comparison of Iowa legislation and practice and the recommendations published by the United States Children's Bureau. The writer's recommendations are by no means considered comprehensive, but rather treat some of the more obvious points.

CHAPTER II

HISTORY OF ADOPTION LEGISLATION

Although Iowa was admitted to statehood December 26, 1846, it was more than eleven years before any legislation relating to adoption was enacted. Even so, Iowa followed but seven years behind Massachusetts, the first state to take legislative action in regard to adoption. (1)

It is possible that prior to the establishment of law, adoptions were individually granted by the legislature. No record of such activity was located, but it is said that adoptions, and divorces, were thus handled.

The first adoption law in Iowa, passed by the Seventh General Assembly of Iowa on March 16, 1858, made adoption a process very similar to real estate transfer. The law went into effect eight days after passage, on March 24, 1858, and its first appearance in the assembled laws of the state is in the Revision of 1860, Code of Iowa. (2) This volume was the second codification of Iowa law, the first having been published in 1851.

This act, which remained virtually unchanged until 1929, made an adoption binding when the instrument of adoption was duly recorded with the deeds of real estate.

(1) Social Work Year Book, 1947, Russell Sage Foundation (New York), p. 23

(2) Code of Iowa, 1860, Ch. 107

The adoption thus executed established rights, duties, and relations, including the right of inheritance, between the parent and child the same as those existing between parent and child by lawful birth. (1)

The topical heading of Sec. 2600 (1.) of the Revisions of 1860 of the Code of Iowa was, "any person may adopt child." The body of this section, however, limited the provision to the extent that any person deemed competent to execute a will was authorized to adopt a child. There were no other qualifications set forth for the adopting parents at the time of adoption. If, however, maltreatment was committed or allowed by the adopted parent, or there was "palpable neglect of duty" on the part of the parent, the custody of the child could be taken from the parent. (2) Such action had to be ordered by the court in the same manner, as far as applicable, "as in a case regarding the relationship of master and apprentice". This procedure is no further defined, and hence the meaning is not clear. It seems however, that the intent may be to explain that removing custody of a child from adopting parents was done in a manner similar to that followed in the severance of relationship of master and apprentice. Custody could

(1) Ibid., Sec. 2602 and 2603

(2) Ibid., Sec. 2604

thus be removed from the adopting parents and placed with someone else at his* expense. An alternative possibility, in case of maltreatment or neglect, enabled the court to "require from the adopted parent, bond with security, in a sum to be fixed by him,** the county being the obligee, and for the benefit of the child, conditioned for the proper treatment and performance of duty toward the child, on the part of the parent." (1) An added provision prohibited diminishing the child's right to inheritance from the adopting parent.

Consent to the adoption was necessary under the provisions of this first Iowa law. An instrument in writing was required, signed by the parties or party consenting, stating the names of the parents, if known, the name of the child, if known, the name of the person adopting such child, and the residence of all, if known, and stating the name by which the child was to be thereafter known. (2)

*The use of the pronoun is taken from the law, Revision of 1860, Code of Iowa, and there is no further explanation to clarify whether this reference is to the adopting parent or the person to whom custody is transferred.

**Again, the pronoun usage is not clear, being a quotation from Revision of 1860, Code of Iowa. Undoubtedly, however, the reference is to the court.

(1) Ibid.

(2) Ibid., Sec. 2602

The consent of both parents was required, if both were living and not divorced or separated. If unmarried, only the parent lawfully having the care and providing for the wants of the child needed sign. If either parent was dead, the consent of the survivor sufficed. In the event both parents were dead or the child was abandoned, then the consent of the mayor of the city where the child lived was required; the county judge could give consent to adoption for a child living in the county, but not in a city.

The consent had to state that the child was being given to the person adopting for the purpose of adoption as his own child. When both parents were signing the consent, it was necessary that the witnessing officer examine the mother apart from her husband to insure that she was executing the instrument freely and without compulsion or undue influence of her husband, which would invalidate the instrument.

Except for minor revisions or additions, this original law remained in effect for some sixty-nine years.

One of the first supplements to the initial legislation appeared in the Code of Iowa, 1873, following the establishment of Soldiers' Orphans' Homes. A home and three branches, established originally by private organizations to care for the children of soldiers engaged in the Civil War, were eventually consolidated into two

homes whose operation was taken over by the State as public institutions. (1) At first, only the children of soldiers could be admitted, but after a few years, needy children not related to soldiers were admitted and the cost of their care charged to the counties of residence.

The new law relative to adoption, influenced by the establishment of these homes, permitted that any child in one of the orphans' homes be adopted by any citizen of Iowa, with the consent of the parents or guardian of the child. The trustees of the home had to approve such adoptions, and also had the power to return an adopted child to the orphans' home if satisfied that he was not being properly trained, educated, and provided for. It took only the entry of such an order in the proceedings of the minutes of the board of trustees to nullify the former articles of adoption. (2)

The beginning of child placing by private agencies in Iowa is first reflected in the Code of Iowa, 1897. Iowa was among the states which received an overflow of children from the eastern seaboard states, where criticisms about the care of children in almshouses and institutions caused the shipment of children to the middlewest

(1) Employees Manual, State of Iowa, X-1-2

(2) Code of Iowa, 1873, Sec. 1634

for placement in homes chosen "at the raising of a hand."

This was undoubtedly one of the influences which resulted in the establishment of private home finding associations in Iowa. Legislation was effected giving these "homes for the friendless" the power to accept children under guardianship and then place them for adoption. (1)

The laws passed by the seventeenth General Assembly of Iowa provided that the mother of a child might surrender his custody to an incorporated home if the father was dead, had abandoned the child, or failed to provide for him when able. If the guardian of a child was unknown, or if the parents were dead, had abandoned the child, were habitual drunkards, in prison for the commission of a crime, inmates of a house of ill fame, or neglected to provide for the child, the judge of a court of record, the mayor, or the justice of the peace could surrender the child to a home for the friendless.

The 1897 edition of the Code of Iowa contains provision that when an instrument in writing affecting the adoption of minors (or real estate) is acknowledged or proved and certified as required, it may be read in evidence without further proof. (2) This same edition of

(1) Code of Iowa, 1897, Sec. 3255

(2) Ibid., Sec. 4629

the codification of Iowa laws also has a number of references to (1) Iowa Supreme Court decisions which clearly established the fact that an adoption did not really take place until the recording of the instrument, and that inheritance was impossible unless the instrument was recorded prior to the death of the person from whom inheritance would come.

Without much direct bearing at the time, a group was created in 1898 which was to ultimately play a considerable part in the adoption program of Iowa. The Board of Control of State Institutions (2) was created then (3) and the Soldiers' Orphans' Home (recently named the Annie Wittenmyer Home) has since remained under its jurisdiction and is the major public institution in the State from which children are placed for adoption. (4) The Board of Control, in addition to administering the Annie Wittenmeyer Home, currently has administrative responsibility for Iowa's penal institutions for men and women, the juvenile training schools for boys and girls, the

(1) Ibid.

(2) Commonly called the Board of Control and thus referred to throughout balance of material.

(3) Employees' Manual, State of Iowa X-1-2

(4) Children may be adopted from the State Juvenile Home, but because of their age or problems are rarely considered "adoptable".

State Juvenile Home (which accepts delinquents under ten years of age, or older children who are not delinquents or whose delinquencies are not serious), the hospital schools for epileptics and feeble-minded, and the hospitals for the insane.

When the State Bureau of Child Welfare was created (not until 1925) it was made a part of the Board of Control, although it was eventually transferred to the Department of Social Welfare, after the creation of that group in 1937.

After the publication of the Code of Iowa, 1897, there was no new condification of Iowa law until the Code of Iowa, Supplement of 1913 appeared, followed by the Code of Iowa, Supplemental Supplement of 1915. These volumes did not contain changes in the adoption law itself, but some new laws were introduced which influenced adoption practice to some extent. Provision was made that maternity homes must report within twenty-four hours the removal from the home of any baby born therein. Likewise, this same statute provides that the persons in charge of maternity hospitals "shall not adopt or dispose of by adoption or procure or assist in the disposal by adoption of any child born therein, without the articles

of adoption* being filed as required by law". (1)

By the time the Code of Iowa, Supplement of 1913 was issued, the legislature's recognition that children were being imported into Iowa was demonstrated in regulating laws. The first mention of bonding in relation to importation appears in this publication. (2) It provided that no association incorporated under the laws of any state other than Iowa could place children with any family in Iowa, either with or without indentures, or for adoption, unless the association had furnished the Board of Control with such guarantee as it required. An indemnity bond in the amount of one thousand dollars was also required.

The adoption law itself was not changed in 1925, but the Code of Iowa, 1927 introduced several other significant pieces of legislation which were passed in 1925 and concerned children. The Bureau of Child Welfare was created in 1925, as a part of the Board of Control. With the creation of this body, came also the provision for the licensing and regulating of child placing agencies,

*The terminology, articles of adoption, is used at this point in the same manner that the codification has previously mentioned the instrument in writing which, when properly recorded, made an adoption binding.

(1) Code of Iowa, Supplement of 1913, Sec. 2575

(2) Ibid., Sec. 3260-1

maternity hospitals, and children's boarding homes. The latter had no direct bearing on adoption, for only homes caring for more than two children had to be licensed. Thus, some independent adoptive placements which might have come to the attention of the Bureau of Child Welfare, did not because of the leniency of the boarding home law.

The licensing of maternity hospitals gave some measure of control over the small operators in whose nursing homes a limited number of illegitimate births occurred. Because of the provision earlier enacted requiring that maternity homes report within twenty-four hours the removal of any baby born therein, and since the laws did not prevent the maternity home operators from assisting in adoption if the articles of adoption were filed as required, any control of adoptions related to licensing maternity homes was rather indirect. As workers made visits to the maternity homes to license them, an opportunity was thus provided for the interpretation of adoptive placements through child placing agencies, which now were also being licensed.

Actually, it was the licensing of child placing agencies which was the most significant innovation at this time. (1) While this of itself probably did not

(1) Code of Iowa, 1927, Sec. 3661-a60

measurably alter the pattern of adoptions in Iowa, it doubtless provided the foundation for the later improvement in adoption practice. Licensing of child placing agencies necessarily meant the establishment of some uniform standards of practice, and a few years later there were major changes in the legislation.

In 1929 the Forty-second General Assembly made the first major effort to revise the adoption legislation which had developed over a period of nearly seventy years. The new statutes provided for an investigation by the court to verify the allegations of the petition, to investigate the conditions and antecedents of the child for the purpose of determining whether he was a fit subject for adoption, and to make appropriate inquiry to determine whether the proposed foster home was a suitable one for the child. A six month's residence in the proposed home, prior to final approval of the adoption, was also established. Both the investigation and residence provisions could be waived by the court "upon good cause shown when satisfied that the proposed home and child were suited to one another". (1)

By practice, this investigation was commonly interpreted as the responsibility of the county attorney. In

(1) Code of Iowa, 1931, Ch. 473

many cases, the attorney representing the petitioners simply vouched for his client's reliability to the county attorney, who in turn then signed a very brief "form-type" report which was submitted to the judge for approval. This practice was widely enough accepted that many people came to believe that the law actually provided that the county attorney, rather than the court, make the adoptive investigation.

Further, in practice, even this perfunctory investigation and the residence provision which could be waived, quite often were waived. If the child had been in the adoptive home prior to the filing of the petition, the residence requirement might be fulfilled, or partially so. Otherwise, no effort was made, as a rule, to carry out this provision.

Another new statute gave the court permission to waive notice of hearing or determine the manner of notice if the parents were dead or had abandoned the child.

It was in 1929, also, that legislation was passed permitting the annulment of an adoption if, within five years, a child developed feeblemindedness, epilepsy, insanity, or venereal infection as a result of conditions existing prior to the adoption, and of which the adopting parents had no knowledge or notice. (1)

(1) Ibid.

Also in 1929, it became necessary to send a duplicate copy of the court findings to the Board of Control. (1) With the creation of the State Department of Social Welfare some eight years later, this provision was changed so that these records would be sent to the Division of Child Welfare of that department.

In 1941, recognition was first given to the need for confidentiality of adoption records. The law passed by the Forty-ninth General Assembly specifies that the complete record in adoption proceedings, after filing with the clerk of court, shall be sealed by the clerk and thereafter not be opened except on order of the court.

When the Fifty-second General Assembly met in 1947, efforts of long standing were formally recognized and some changes were made in the adoption legislation. (2) Not all of the procedures which were requested by the interested groups were recognized by the assembly, but a few changes improved the old laws, and represented progress toward recommended procedure.

The law, as it now stands, provides that any person of lawful age may petition the district court of the county in which he or the child resides, to adopt any

(1) Ibid.

(2) Code of Iowa, 1946, Ch. 600

child not his own. The law also states that no person other than the parent of the child, under fourteen, may assume his permanent care and custody except in accordance with the provision of the chapter on adoption in the Code of Iowa, or the chapter relating to child placing agencies. Thus, in theory, no one may assign, relinquish, or transfer to another his rights or duties with reference to the permanent care or custody of a child unless by an order or a decree of court, or unless the parents sign a written release, of the permanent care and custody of the child to a Board of Control agency or to an agency licensed by the State Department of Social Welfare. If the petitioner is married, his spouse shall join in the petition unless that spouse is the natural parent of the child.

The judges of the district court may designate a municipal court judge to act as judge in adoption matters if there is a municipal court in the county.

The petition, which must be verified and filed in triplicate, is supposed to state the name, age, race, residence, and religious faith of the petitioner or petitioners and of the child; the marital status of the petitioner or petitioners; the property rights of the child; the name to be given the child after adoption; if the child is an orphan, the name and place of residence of his guardian, if any, and if none, of his next of kin;

the name of any licensed child placing agency to which the child may have been permanently committed or released; the relationship of the child to the petitioner or petitioners; and the facts relating to the consent to adopt, as required by law.

When the petition for adoption has been filed, the clerk of the court is supposed to transmit two copies of it to the State Department of Social Welfare, if that is the agency appointed to make the investigation. If the placement has been made through the Board of Control of State Institutions, or if some one other than the State Department of Social Welfare is appointed to make the investigation, then only one copy of the petition is forwarded to the State Department of Social Welfare and the other copy goes to the person or agency directed to make the study.

The court has the option of naming the State Department of Social Welfare or some "qualified person or agency" to make an investigation of the proposed adoption. There are three components of the investigation specified in the law: (1) The allegations of the petition must be verified. (2) Antecedents of the child are to be investigated for the purpose of ascertaining whether he is a proper subject for adoption. (3) Appropriate inquiry is to be made to determine whether the proposed foster home is a suitable one for the child.

The law provides that this investigation must be completed and a report with recommendations made to the court within sixty days from the filing of the petition and that no petition shall be granted until the investigation is completed. There is also a provision for a period of residence of the child for twelve months in the proposed home. This period of residence may be shortened by the court "upon good cause shown when satisfied that the proposed home and the child are suited to each other".

The State Department of Social Welfare may and, upon order of the court, shall make a further investigation during the period of residence and prepare a final report with recommendations to the court.

If one of the petitioners is related to the child within the third degree of consanguinity or is married to a natural parent of the child, both the investigation and the period of residence may be waived by the court.

The new law made little change in regard to giving consent for adoption. It provides that the consent of both parents shall be given unless one is dead, considered hopelessly insane, imprisoned for a felony, or an inmate or keeper of a house of ill fame, or unless the parents are not married to each other, or have signed a release to a child placing agency or have been deprived

of the care of the child by judicial procedure. If the parents are not married to each other, the one having the care and providing for the wants of the child may give consent. If the child is in the care of a guardian duly appointed, then the guardian must consent to the adoption. If the child is a ward of the State of Iowa, the Board of Control must give consent to the adoption. If the child has been placed with a licensed child placing agency, consent of that agency must be given before the adoption can be granted. If the child being adopted is fourteen years of age or over, then he, too, must give his consent to the adoption.

The consent to adoption shall be in writing and verified and a copy of it must be attached to the petition. The consent is applicable only to the specific adoption proposed by the petition. The minority of a parent does not invalidate consent.

The court provides for hearing in adoption proceedings and prescribes the notice for them. If the parents of the child are dead or have abandoned him and he has no guardian in the state, the court determines the type of notice of the hearing, or may waive notice. The court also has the power to prescribe the notice to be given a divorced parent not having custody of the child.

The court, after hearing the facts in the case, may order a decree entered in the office of the clerk of the court. This decree is supposed to include the name of the child, the name of his natural parents, and the names of the persons adopting him, as well as the name by which the child is to be known thereafter. The child, by this decree, becomes the child of the petitioners. In this decree the court may change the name of the child. A certified copy of the decree is to be provided the foster parents by the clerk of the court.

Upon the entering of the adoption decree the rights, duties, and relationships between the child and the parents by adoption become the same as if the child were born to the parents, and the right of inheritance from each other between the child and his adoptive parents becomes the same as if the child were born to the parents.

The findings of the court are to be sent in duplicate to the State Board of Social Welfare. If the child was a ward of the state, the Board of Control is also supposed to receive two copies of the decree.

The provision for sealing the record of adoption proceedings is retained, and only upon order of the court may such records thereafter be opened. In addition, there is further provision that any person, except the adopting parents or the child, who discloses any infor-

mation contained in any adoption papers or proceedings, except as authorized by the court, shall be guilty of a misdemeanor and upon conviction punished accordingly. This same provision applies to any one who violates any of the provisions in the chapter on adoptions, or makes any false statements with reference to the matters contained in that chapter. The punishment for a misdemeanor is imprisonment in the county jail for not more than one year, or a fine not exceeding five hundred dollars, or both the fine and imprisonment.

The 1947 legislation also made a change in the annulment provisions -- not in the way an annulment may take place, but rather in the disposition of the child when an adoption is annulled. Formerly, the State Department of Social Welfare was charged with the responsibility of making provision for the child whose adoption was annulled. This created a difficult situation, because the State Department to whom such children were referred had neither funds nor a place to care for them. The State Department could only refer the child to an institution under the jurisdiction of the Board of Control or to some private agency or the juvenile court. The new law provides that the district court of the county where the adoptive parents reside may annul an adoption and refer the child to the juvenile court or take such other action as the case might require. In practice, this would mean

that a judge of the district court who annuls the adoption could make plans for the child, since he would probably also be acting as judge of the juvenile court. In any event, plans for the child will now be carried out in the community where the family is known.

There are several laws which are related to the adoption procedure, some of which have rather direct bearing and others which are only indirectly connected. These include the provisions for the licensing of private child placing agencies; the licensing of maternity homes, foster homes, and hospitals; the importing of children into the State of Iowa; and the reporting of certain vital statistics. The Division of Child Welfare of the State Department of Social Welfare retains responsibility for yearly licensing of private child placing agencies. Likewise, it is the responsibility of this same body to license all boarding homes caring for more than two children.

An overlapping in the laws caused by the provision for licensing hospitals has now been eliminated by agreement between the StateDepartment of Social Welfare and the State Health Department. The Health Department, which was given a new responsibility for licensing hospitals and nursing homes, has assumed from the Department of Social Welfare the job of licensing small maternity

homes. There are three large maternity hospitals in the state providing for the care of unmarried mothers. Since these three institutions serve a social welfare function as well as a health function, their licensing is retained by the State Department of Social Welfare, although the HealthDepartment judges the institution's compliance with health standards.

There is provision for the preparation of a new birth certificate when a child has been legally adopted. A certificate or abstract of the decree of adoption must be forwarded by the clerk of court to the state registrar of vital statistics. This certificate or abstract is then filed in the original record of birth, remaining a part of the records of the State Bureau of Vital Statistics, and is not accessible to any one except upon order of the court. Upon request a new birth certificate shall be issued, bearing the name of the child shown in the decree of adoption. This corrected certificate contains the name of the adopting parents as the natural father and mother of the child. Since the birth records are filed originally with the county registrar, the state registrar must inform the county that a new certificate has been issued and that the original must be effectively covered in such a way that it will not be defaced or destroyed but will make the information unavailable thereafter, except upon court order.

The same law provides that when an adoption is annulled, the state registrar will restore the original birth certificate to the original status in the files and will notify the county registrar to do likewise.

Any history of legislative changes is incomplete without some discussion of the forces behind the legislation. These forces of influence are undoubtedly varied and more extensive than records and existing information would indicate. The writer has been unable to locate much information on the subject, except regarding the activities of the past few years.

The first organized group, concerning which material seems to be on record, is the Child Welfare Commission, appointed in 1923 by Governor Nathaniel E. Kendall. This group was made up of ten men and women whose purpose was to coordinate and correlate the existing public and private facilities for children and to make a study of needed changes and desirable additions to the legislation which then existed. This group did not attempt to completely re-organize child welfare legislation but recommended the passage of ten bills related to the care of children in the State of Iowa. Included among them was one which would have made significant changes in the adoption legislation, had it passed at that time. Of the ten bills introduced, only four were adopted by the

legislature, and the one relating to adoption was not among that group of four. (1)

Even though the Child Welfare Commission did not succeed in securing the changes in the adoptive program that they sought, their influence undoubtedly had some bearing on the major changes which went into effect several years later. It was in 1929 that adoptions in Iowa ceased to be mere transactions for clear title, recorded like deeds and became, instead, matters of court record following a hearing of the facts of the case.

Another influential group was the Iowa Legislative Council, organized a number of years after Governor Kendall's Child Welfare Commission. This group, whose purpose was to try to secure improvement in all social welfare legislation, was related to the Iowa Welfare Association, the organization for social workers in the State of Iowa.

While the Iowa Welfare Association, formerly known as the Iowa State Conference for Social Work, definitely offered some direction and sponsorship to the Legislative Council, the Council could not be considered a component part of the Iowa Welfare Association. The Council met irregularly and its activity was greatest while the legislature was in session. Then efforts were made to

(1) Report of the Iowa Child Welfare Commission, State of Iowa (Des Moines) 1924

induce the legislature to pass laws which the Council considered desirable. The Legislative Council made numerous attempts to secure changes in the adoptive legislation, but their efforts were not really rewarded until another organization, the Child Welfare Legislative Committee, came into being as an off-shoot of the Legislative Council.

In 1946, prior to the opening of the Fifty-second General Assembly in January, 1947, the Iowa Legislative Council adopted a new constitution and directed its efforts toward attempting to influence legislation relating to mental hygiene.

The Child Welfare Legislative Committee, operating with only a set of by-laws rather than a constitution, devoted its efforts, as its name implies, entirely toward improvement of welfare legislation for children. The Child Welfare Committee, as the Legislative Council, is composed of representatives from various civic and fraternal organizations, such as the American Legion and its Auxiliary, the League of Women Voters, the P.T.A., Federated Womens' Clubs, Business and Professional Women, and various church groups. As member organizations, they contribute not only through the time and effort of their various representatives, but by financial support to the two legislative groups.

It hardly seems fair, when so many people have put much time and energy into legislative efforts, to give credit to one or several special individuals. Mr. Wendell Gibson, however, has served as chairman of the Child Welfare Legislative Committee during its entire existence and undoubtedly deserves a great deal of credit for the revised adoption procedure passed by the Fifty-second General Assembly in April of 1947. He represented the Committee as a lobbyist and because he is an attorney was able to draw up the bill in a form which the legislature could have accepted, and which incorporated a majority of the adoption principles recommended by the United States Children's Bureau.

There was a great deal of discussion about the proposed legislation, and the House and Senate each made numerous changes in recommendations. It was thought at one time that the two groups would be unable to reach joint understanding and the legislation would again be dropped. (1) It is difficult to assess the forces which influenced the legislators at that time. Accusations have been made that various groups (including some of the licensed private child-caring and child-placing agencies) exerted pressure to modify the proposed bill. These charges have been denied, but there seems to be general

(1) Unpublished minutes Iowa Legislative Council and Child Welfare Legislative Committee. 1946-47

acceptance that a number of attorneys, judges, and probation officers were opposed to passage of the legislation. Consensus is that some members of the legal profession look upon adoption as belonging in their area of activity and consider that social agencies and social workers are simply interfering when social studies of children and adoptive parents are prepared. At one time the changes in the disputed bill were believed to be so significant that the Legislative Committee wanted to have the Legislature discontinue consideration of the bill because they thought it was being altered so greatly that the changes would be harmful rather than helpful.

Ultimate agreement by the two houses of the legislature was reached eventually, however, even though the bill as finally adopted was considerably changed from the one originally proposed. The influence of the press in the passage of legislation must be noted. It is reputed that the legislature, whose rural representation is disproportionate to the general population, is apt to disregard suggestions coming to it through the newspapers from the larger municipalities in Iowa.

The Des Moines Register, however, with the largest daily circulation in the State, should be given credit for its quiet but effective campaign toward the importance of adoptive legislation. Within the few years

prior to the 1947 passage of the new bill, the Des Moines papers carried articles with titles such as the following: "Woes Follow Secret Deals To Get Babies", "Black Market Baby Deals In Iowa Booming", "Black Market in Baby Adoption Is Flourishing But Too Often Tragic", "Chance To End Adoption Scandal", "If You Die, What Will Happen To Your Baby?" and "New Adoption Law -- Right, But Not Right Enough". (1) The interesting thing about the Des Moines newspaper articles is that they were usually basically accurate and sound propaganda. The advice of social workers was sought and accurate statistics were secured before these articles were published.

Similar articles have appeared throughout the state in a number of other newspapers, some with wide circulation and others from very small communities. Undoubtedly they have all played their part, but the influence of publicity cannot be accurately measured in this situation.

(1) Des Moines Register, papers for 6-24-45, 8-25-46, 2-23-47, 4-14-47, date unknown, and 5-2-47

CHAPTER III

ADMINISTRATION OF ADOPTION LAWS

With provision in the current law for adoptive placements by private agencies, by the Board of Control, and by the juvenile courts, administration is by no means in the hands of one agency. In addition, there are independent placements made frequently, in which no agency plays a part unless called in to make an investigation at the time of granting the final adoption decree.

Basically, because court approval is necessary in all cases of adoption, the courts in Iowa have the major responsibility in the adoption field.

The district court in Iowa is the one vested with the power to grant adoption decrees. The judges of the district court, however, may designate a municipal court judge to act as judge in adoption matters with jurisdiction in the county in which such municipal court is organized. (1)

The district court in Iowa is a court of record, and has general, original, and exclusive jurisdiction, both civil and criminal, except when exclusive or concurrent jurisdiction is conferred upon some other court by the constitution or laws of the state. It has the

(1) Code of Iowa, 1946 Ch. 600

"powers usually possessed and exercised by courts of record".

There are twenty-one judicial districts incorporating the ninety-nine counties of Iowa. These are made up of from one to nine counties, and each district is served by from two to six judges, depending upon size of district.

Judges of the district court are chosen by the voters at the time of general election, and they must be practicing attorneys at law. The county clerks of court are likewise chosen by general election.

The municipal courts (there are currently seven in Iowa) are likewise courts of record, having concurrent jurisdiction with the district court in certain specified civil matters. Judges of the municipal court may be designated by judges of the district court as judges of the juvenile court. While there are three counties in which judges of the municipal court are designated as judges of the juvenile court, there is only one municipal judge who has been delegated power to grant adoptions.

Hence, it is possible that the same man may serve as judge of the juvenile court, hear a juvenile case concerning a child to be placed in adoption, and later hear the adoption case presentation in his capacity as judge of either the district court or designated muni-

cipal court.

Becuase of the leniency in the appointment of the agency or individual to take care of the required investigation, great responsibility rests with the court. The law does not stipulate the qualifications of the person or agency to be named by the court, so this allows for a good deal of variation in practice. The fact that the State Department of Social Welfare is the only specific resource named for preparing the investigation means that some judges who might not otherwise turn to the State Department have asked for their cooperation.

The State Department of Social Welfare (1) in Iowa is composed of the State Board of Social Welfare and its officers and employees. The three full-time members of the board are appointed for six-year terms by the governor, with the approval of a two-thirds vote of the members of the senate in executive session. One member of the board must be a woman, and only two may be from the same political party.

This board administers the old age assistance program, aid to the blind, aid to dependent children, child welfare, and emergency relief (not to be confused with county poor relief). Within the ninety-nine

(1) Ibid., Ch. 234

counties of the state, it operates through county boards of social welfare, made up of three or five members paid on a per diem basis. Staff members of the county departments of social welfare are in reality members of the staff of the State Department of Social Welfare, but are commonly referred to as county welfare workers and quite often identify pretty strongly with the county to which they are assigned.

Within the State Department of Social Welfare there are five divisions, one of which is the Division of Child Welfare. Under the director of the division are five supervisors: Supervisor of consultants, supervisor of licensing, case correspondent, supervisor of child welfare studies, and supervisor of psychological services. Three of these supervisors carry direct responsibility in the adoption program: (1) the supervisor of consultants in the supervision of consultant staff who, in turn, are responsible for supervising the adoption work of the county workers; (2) the case correspondent, in receiving, assigning, and checking of adoption studies requested of the State Department of Social Welfare; (3) the supervisor of child welfare studies, who compiles statistics and makes studies in the area of adoptions.

On the county staffs, there are two types of workers who prepare adoption investigations: (1) child

welfare workers (of three different title designations according to qualifications) who give full-time service currently in twenty-two counties. (2) In all but fourteen of the other counties, the county director of social welfare or a member of his staff is designated to give child welfare services, including adoption service.

In one of the remaining fourteen counties, the probation officer is designated to give the service, while the county overseers of the poor are designated in the other thirteen. This means that in these counties there is a non-integrated welfare program with an overseer who has an office apart from the department of social welfare and who administers the county poor relief program. Consultant service is offered by the Division of Child Welfare in these fourteen counties.

Once a petition to adopt has been received by the court, someone must be appointed to make the required investigation (1) (unless one of the petitioners is related to the child within the third degree of consanguinity or is married to a natural parent of the child).

(1) The term investigation is used throughout because it is the terminology applied in the law. Social workers, in practice, secure a social history of the child insofar as possible, and prepare a foster home evaluation of the adopting family, when appointed to make the investigation.

The judges have referred investigations to the State Department of Social Welfare, the various county welfare departments, probation officers, overseers of the poor, private child placing agencies, Board of Control, and other individuals whose professional qualifications are not in social welfare but who may hold some county office such as county attorney. Of the 1,738 petitions filed in 1948 for the adoption of children, investigations were known to be ordered on 1,565. Of the 173 remaining petitions, it is possible that there were some investigations made, but the court order was not submitted to the State Department, the agency charged with keeping records regarding adoptions. Only nine of the 173 cases for which no report was available were independent placements on which an investigation is required; the other 164 were either step-parent or relative adoptions which do not demand an investigation. (1)

When the law was written, there probably was no intent to recheck on placements made by agencies. In practice, however, a number of adoptive placements have been investigated by more than one agency, social worker, or other individual. In other words, even though the child involved is in the custody of a licensed agency and placed by the agency for adoption,

(1) Unpublished data, State Department of Social Welfare

someone not connected with the placing agency may be appointed by the court to investigate the situation. In addition, in some independent placements, two separate investigations are sometimes ordered. This system of rechecking or double-checking the report of a designated agency or individual has lead to some confusion. It is somewhat disturbing to some people to have to repeat all or part of the material previously related to someone else, to have a second physical examination, and to supply references again. The thoroughness of these "second" investigations depends entirely upon the judge ordering them. Some judges will accept only the work of someone familiar to them, and demand a complete re-investigation. In some instances, the court has accepted from the second worker a re-presentation of material which that worker has secured from the placing agency, providing the second worker has interviewed the petitioners in their home. In still other cases, the re-investigator may simply inform the court that he has examined the records of the placing agency, finds them in order, and recommends approval of the placement.

Apparently there are two types of thinking among the judges who order a second investigation of an agency placement or two individuals to study an independent placement. One idea expresses the idea that adoption is so important and that one person could so

easily err in judgment that it is desirable to have two people so that their recommendations can be checked against one another. The other idea which has been expressed by the judges is that a child-placing agency, by virtue of having custody of the child in question, is not a disinterested party to the action. The law in no way specifies that the person who makes the investigation must be disinterested. This, perhaps, is a carry-over of terminology from some other phase of legal practice. The judges then argue that if the agency, which is not disinterested, is qualified to make a study of the placements it makes, any unmarried mother could then qualify to make the investigation of placement of her baby.

During 1948, 16.5% of the agency placements were re-investigated by some other agency, employees of the public department of social welfare, probation officers, etc.

During 1948, slightly over 28% of the adoptive placements were made by private agencies, board of control and the juvenile courts. There are in the state of Iowa fourteen private child placing agencies, of which ten are sectarian. These are Lutheran, Catholic, Methodist, and Jewish. The other four agencies are nonsectarian, serving mainly the Protestant groups. All of the agencies have a child caring program which

includes institutional, or boarding home placements, or both.

It is interesting to note that one of the agencies licensed to place children for adoption also has a maternity hospital license. It is one of the three maternity hospitals in Iowa operating to care for unmarried mothers. One of the other maternity hospitals, although not licensed for child placing itself, is affiliated with the Diocesan Catholic Charities, which has a child-placing license.

The various institutions involved are licensed for the care of as many as 120 children by one agency and many of the youngsters cared for are received on a temporary basis, of course. During 1948, there were 381 placements made by these fourteen private agencies. (1) Agency placements, however, have grown through the years, not only in number but in percentage of total placements. In 1947, the first year during which the amended and present adoption legislation went into effect, there were, for example, only 281 private agency placements, one hundred less than the following year.

The State Department of Social Welfare, the agency

(1) Unpublished data, State Department of Social Welfare, Iowa

which has contact with many people who may know of illegitimate births, always emphasizes the agency-type placement. A great deal of time has been spent by individual workers throughout the state in interpreting good adoption policies and practice to the people who may at some future date have an opportunity to recommend either an agency or private placement.

Of the total of 1,783 placements of children in 1948, ninety-two were placed through the Board of Control of State Institutions. This would mean that those children were wards of the state and had become such either through voluntary admission by the parents or by commitment of a juvenile court. The Board of Control has a children's division, responsible for the Annie Wittenmeyer Home and the Juvenile Home. There is a staff of field agents, each of whom serves in a particular area of the state. Among the other duties of these agents is their responsibility to evaluate and approve or disapprove adoptive applicants, and supervise the placement of wards of the state who are placed for adoption in these approved homes. There are the services of clinical psychologists available for assistance in determining the placeability of the children who become state wards.

The placements made of wards of the juvenile court are but a minor percentage of the total. During 1948,

in fact, they were slightly less than 1%, with just seventeen placements. In most instances in which the child placed is a ward of the juvenile court, it could probably be said that there is some personal acquaintanceship among some of the parties involved. Someone who has known the child or his parents, or the judge or the probation officer, may recommend some family interested in securing a child for adoption. The court then having taken custody of the child from the parent or parents, may then give consent to the adoption, although the district court (or one delegated by it) authorizes the actual adoption. This need not always mean that the placement of the child is to parents who reside in the same county as the natural parents of the child, for adoption may take place in the court of the county of residence of either the parent or the child.

There were 1,248 nonagency placements during 1948; (1) 685 of this total were step-parent adoptions and 178 of the children were adopted by a relative, only six of whom were beyond the third degree of consanguinity. This means that there were 385 independent placements, which in many instances have been engineered by some interested individual thinking that he

(1) Unpublished data, State Department of Social Welfare

was doing all the parties involved a good service. Social workers in Iowa seem to have felt that there was a very high preponderance of independent placements, but the 1948 figures show that 22.2% are of the independent variety. This figure has been decreasing slightly during the years and it is possible that under the present legislation it will be further decreased. Interestingly enough, of this group of 385 in which an investigation could not legally have been waived, there were only eight in which the investigation was waived and nine additional cases on which there were no reports to indicate whether there was an investigation. (1)

The State Department of Social Welfare has direct responsibility in three areas of adoption. They receive copies of all petitions and decrees and prepare statistics from them. They prepare investigations as ordered. The other area of responsibility relates to the investigation of placements which may have been made independently, by the Board of Control, or by private agencies.

The plan for completing the studies varies somewhat, depending on the way the order is received from the court. If the State Department of Social Welfare

(1) Ibid.

is appointed directly by the court, they then delegate responsibility to the county or counties involved in securing information. This may mean that all of the work is completed within one county if both the adopting parents and the child are from the same county, enabling the same worker to secure a social history of the child and prepare the foster home evaluation for the adopting parents. There may be other cases in which the family resides in one county and the child is from some other vicinity. In such instances, the plan is to have the respective counties secure the necessary social history and foster home evaluation and submit them to the state department. The state, in turn, then compiles a report for the court which is forwarded directly to the clerk of the court which issued the order for the study.

If the order is given directly to the County Welfare Department instead of the State Office, similar procedure would be involved, with the county receiving the order assuming the responsibility for assembling all of the material, whether it can be located within the county boundary or must be sought from other counties.

Experience during the two years the present law has been in existence has led the state department and the

private placing agencies to believe that the judges are not interested in long detailed reports. Consequently, although complete social histories and foster home evaluations are prepared, only summarized reports are given to the court with the explanation that more detailed information is available if desired. The county workers, who in Iowa are actually a part of the State Department of Social Welfare, may submit the carbon copy of the report to the state office for safekeeping. The premise back of this procedure is that because adoption records are sealed by the court, they should not be available elsewhere in the county in unsealed form.

Of the 1,738 placements in 1948, 144 were referred to the State Department of Social Welfare and 171 directly to county welfare workers who are, as explained above, on the state payroll but stationed in particular counties. There were also 163 studies done by probation officers and fifteen by county overseers of the poor. In 111 instances, individuals not connected with social agencies were appointed. (1) In many of these cases, they were county officials, frequently the county attorney. A number of physicians also made investigations.

(1) Ibid.

It is not only important to know how the adoption laws are administered, but some knowledge of the functioning of the Division of Child Welfare, that part of the State Department of Social Welfare responsible for the administration of specified child welfare laws, is necessary because some of these laws influence adoption matters.

The practice followed in the administration of the subsidiary laws which relate to adoption is in most instances a relatively simple one. The ninety-nine counties of Iowa are divided into ten geographic field districts, each of which is served by a child welfare consultant from the State Department of Social Welfare. Within her district, each consultant has responsibility for licensing the child placing and child caring agencies. Regular visits to the agency take place about once every month or six weeks and a chronological record of the visits is kept within the agency file in the state department. Once each year an evaluation of the agency is prepared by the consultant and it is usually discussed by the consultant with the agency concerned. On the basis of this evaluation, the supervisor of licensing in the Division of Child Welfare and the consultant determine whether the license will be renewed for the ensuing year. The health de-

partment plays a part in the licensing in their approval of sanitary facilities and needs relating to the health of the children concerned.

The State Department of Social Welfare does not make a practice of reviewing each adoptive placement made by a private agency prior to the placement being completed. The control which is used is rather one of review. As the consultant visits the agency periodically she will give consultation service, which in many instances will relate to adoptive cases. In the course of reading case records there will be adoptions included in this group. There is a further opportunity to review material in seeing the petitions and decrees which come into the state department and are, of course, available to the consultant for the agency. Should a question arise concerning the wisdom of a particular placement, the State Department of Social Welfare has no authority to alter the plans of the agency beyond the control which it has in issuing the license itself. This would mean, of course, that although the child welfare consultant could make very specific recommendations, the agency would be free to carry them out or not, as it saw fit. The consultant, in turn, would incorporate such activity in her evaluations and recommendations concerning future licensing of the agency.

The licensing evaluation includes consideration of the agency personnel's professional competence to do child placing.

In actuality, the standards of most of the agencies in Iowa are good. Almost without exception, the agencies have at least one trained worker on the staff and some agencies have several trained workers. The other personnel would be beginning workers, operating under careful supervision, or workers who have had a good deal of experience in social work and may thus be quite well qualified, even though they do not have graduate training.

The licensing of foster homes in Iowa plays a much smaller influence on adoptions than one might anticipate. The primary reason for this is that only homes caring for more than two children need be licensed. This means that an unlimited number of children can be cared for individually or in pairs in boarding homes without seeking or accepting any form of control through licensing. Many of the homes which are used for one or two children are chosen by the private agency or public agency workers and meet standards very similar to those set for a licensed home.

The procedure involved in licensing is for the agency or worker utilizing the home to prepare an evaluation of the social factors and to submit it and the

application of the boarding parents to the State Department of Social Welfare. The engineer from the State Health Department makes an investigation from the standpoint of health facilities and if both Departments recommend the approval of the home, an annual license is issued by the State Department of Social Welfare for the number of children which the home can accommodate.

Undoubtedly some boarding home placements eventually become adoptive home placements, but it is not believed the percentage would be high. There are, of course, some children in boarding homes that are unlicensed and unsupervised. Some of these independent placements may continue for an indefinite period without adoption ever taking place. As a matter of fact, a few of the denied adoptions also become unlicensed and unsupervised foster placements.

The laws, unfortunately, make no provision for removing the child from the custody of the petitioners if the court does not approve the adoption. As a consequence, unless the situation seems bad enough to warrant juvenile court action for the protection of the child or unless the natural parents of the child remove him from the home where adoption has been denied, the child may remain in the home with no legal protection whatsoever.

Iowa laws make provisions for the licensing of maternity hospitals by providing that any one who receives for care and treatment during pregnancy or during delivery or within ten days after delivery, more than one woman within a period of six months, except women related to him by blood or marriage, shall be deemed to maintain a maternity hospital. There are throughout Iowa a good many small homes, primarily in areas where there are no large hospitals, giving maternity service to small numbers of women. The responsibility for licensing these maternity hospitals rests by law with the State Department of Social Welfare.

In 1947, however, the legislature enacted a new law requiring the licensing of nursing homes and hospitals by the health department. (1) An effort was made to have the maternity hospital law changed so that the Health Department would issue those licenses. This change was not enacted, but by agreement of the Department of Social Welfare and the Health Department, the latter now has assumed responsibility for licensing the small maternity hospitals. Out of some two thousand births in such hospitals during a recent year, just three were illegitimate. Since this is such a

(1) Acts of Fifth-second General Assembly, State of Iowa, Ch. 91

small percentage and the illegitimate births must be reported to the State Department of Social Welfare anyway, it may be assumed that the transfer of this function to the Health Department will not materially effect the adoptive practice in the State of Iowa.

As a matter of fact, it is probable that if this administrative change has any influence, it will be a good one rather than detrimental. This influence can be presumed because it is the intention of the Health Department to require that all general hospitals, maternity hospitals, and nursing homes desiring licenses report immediately to the State Department of Social Welfare all illegitimate births.

Perhaps one of the areas of greatest activity and least recognition is the follow-up and interpretation on individual cases. While this action is not limited to the employees of the State Department of Social Welfare, there is perhaps more of it done by them than by the private agency personnel because the employees of the State Department have more contact with persons involved in independent placements. The interpretation given in Iowa by most of the judicial officials is that unless some one who does not have the authority to place a child actually accepts a written agreement of surrender of the child and then consents to his adoption by some other party there has been no activity which

can legally be interpreted as contrary to the law. As a consequence, many individuals who desire to arrange adoptions will be instrumental in bringing together persons who are interested in securing a child and those who may have or know of a baby who will be available for adoption. Thus someone who will have played a very significant part in the adoption process is in no way prosecuted, simply because legal papers have not implicated him as having a responsibility. In many cases of this sort, the persons involved have carried on their activities without realizing there were agencies which could perform this work. Others may be aware of the agencies and either disapprove of them or help with independent placements because they think the process of securing a child from an agency is too complicated and too long delayed. Countless hours of work on the part of welfare workers have gone into interpretation to many of these interested individuals who have played some part in independent placements.

In some instances, social workers have made efforts to discourage proposed independent placements, beyond the making of a negative recommendation to the court, which might not be carried out. If a grossly unsuitable placement has been made but not legally sanctioned, efforts to secure a different placement are undertaken through proceedings in the juvenile

court. In independent placements in which the decree of adoption has already been granted, the welfare worker's interpretation is directed toward those who played some part in bringing together the adopting and natural parents. These individuals may be doctors who have delivered babies, attorneys who have prepared legal papers, or simply acquaintances of the people involved. The idea usually expressed is that of explaining the facilities which are available, not only for adoptions through licensed child placing agencies, but for maternity care for unmarried mothers. In many instances, professional people who learn of these resources are glad to refer individuals to them in the future. There are some doctors and attorneys, however, who look upon adoption as their prerogative and who are very hesitant to step out of the field.

An expression of this attitude was recently given by one attorney who explained that he believed that every doctor and lawyer had either an actual or mental file of persons interested in adopting babies. This same attorney could see absolutely nothing undesirable about notifying these individuals of the impending birth of an illegitimate child and helping to engineer the placement of that child, irrespective of any but the more superficial social factors.

CHAPTER IV

SOME TRENDS REGARDING ADOPTIONS IN IOWA

Analysis of the statistics regarding adoptions in Iowa is almost impossible because of the limited figures available and because the types of data recorded vary throughout the twelve-year period since the creation of the State Department of Social Welfare. The one figure consistently secured is the total number of adoptions per year. Some statistical material which might shed further light on the adoption trends is not included in this chapter, but has already been presented in Chapter III because it was so pertinent to the material being discussed therein.

Because the data regarding adults in the following tables could not be eliminated in all cases, it was included in all instances. However, no comments relative to adoptions of adults are included, for they are not pertinent to this study.

The following table shows an almost uninterrupted increase in adoptions from 261 in 1937 to 1,675 in 1948:

TABLE I

Total Number of Adoption Decrees per Year in Iowa, 1937 - 1948 (1)

1937	561
1938	631
1939	747
1940	723
1941	879
1942	1,153
1943	1,112
1944	1,192
1945	1,200
1946	1,600
1947	1,447
1948	1,675
Total	12,920

With the exceptions of 1940, 1943, and 1947, when there were slight decreases from the preceding years, there has been a larger total of adoptions from year to year.

Although the data shows an increase of 198.57% in the number of adoptions for the twelve-year period, it is probable that this figure is somewhat incorrect because the earlier reports are less complete than the later ones. In recent years, better methods of reporting have been devised and more concerted efforts have

(1) Annual Report State Department of Social Welfare, (Des Moines) Iowa, 1938 - 1948, inclusive

been made to secure complete data. Even allowing for a large margin of error because of change in reporting methods, the increase is still remarkably large.

Any interpretation of the influences which caused the increase in adoptions is purely speculative. Because the only accurate census data during this period is for the year 1940, the increased number of adoptions in Iowa cannot be compared to population changes. Beyond doubt, the adoption increase is disproportionately larger than the population increase could prove to be. The socially disorganizing factors of divorce, separation, and illegitimacy, which increased during the war years, may be presumed to have increased the number of children available for adoption. The extension of public welfare services following the enactment of the Federal Social Security Act not only provided a ready source of information and social service to natural parents, but also served as an educational medium to the community at large. This perhaps has been one of the reasons why natural parents and adopting parents have gained a better understanding of the needs of children and made more use of adoption.

With social service more widely available and recognized, more unmarried mothers are aware of the alternative plans for a child born out of wedlock. This frees the unmarried mother from dependence upon relatives and friends

who may be unwilling or unable to help her make sound long-range plans.

Popular publications and films have heightened interest in adoption, both from the point of view of the person releasing a child and the people taking the child in adoption. The natural parents have had an opportunity to learn the advantages of a "good" adoption and the hazards of improper placement; adoptive applicants have had interpretation of similar advantages and hazards from their point of view. These popular appeals may have influenced natural parents to seek adoptive rather than casual placements; at the same time, awareness of the protection given by adoption to both the child and themselves may have encouraged more people to seek adoption decrees for children.

There have been certain practical reasons in recent years which have pointed up the advantages of adoption and may have influenced people to adopt children instead of caring for them without adoption. The possibility of survivors' benefits under the Social Security Act, the dependency allotments for children of servicemen, National Service Life Insurance benefits, and pensions provided for the children of disabled or deceased servicemen are examples of financial advantages which might accrue for children whose status in the family was recognized by adoption. It was within the period shown in

Table I that an increasing proportion of children would be potentially affected by these programs which originated or expanded during these same years. Higher income tax rates, in addition, emphasized the advantage of allowable deductions for relatives.

Compulsory registration and enlistments for military service, increasing use of youthful labor during the wartime scarcity of labor, and increasing school enrollments caused the increased usage of birth certificates. It is thought that these factors may have provided an impetus to completing adoptions.

Agency statements to the effect that there are increasingly more applicants than there are children available for adoption would seem to imply that public interest in giving homes to children has increased. Perhaps this has been influenced by the newer education about the social and emotional deprivations of children reared in institutions. It is possible, also, that the public has an exaggerated concept of the numbers of children available for adoption. War separations may have increased the appreciation of family living and caused some childless couples to seek children in adoption.

A breakdown of figures by types of placement is available for only the past five years, and is not as detailed for some years as for others.

TABLE II

Types of Adoptive Placements in Iowa, Based on Number of Decrees Granted, 1944 - 1948 (1)

Type Agency	1944 Total	1944 %*	1945 Total	1945 %	1946 Total	1946 %	1947 Total	1947 %	1948 Total	1948 %
Total	248	22	290	25	359	23	355	25	490	28
Private			206				290		381	
Board of Control			71				51		92	
Juvenile Court			13				14		17	
Relative or Step-parent	532	46	513	44	654	42	703	50	863	50
Independent	372	32	355	31	549	35	361	25	385	22
Adult	40	42	42		38		28		40 **	
Totals	1,192	100	1,200	100	1,600	100	1,447	100	1,778	100

An analysis of this data permits comparison of three categories: agency placements (including private, Board of Control, and juvenile court), relative and step-parent adoptions, and independent placements.

The agency placements, as represented by these figures, have increased a total of 6% in the five-year period.

*Percentage figures based only on adoptions of children.

**Figure differs from TABLE I, since available data for 1948 was computed on basis of petitions filed, not decrees granted.

(1) Ibid.

Conversely, the over-all decline of independent placements during the five years has been 10%. No explanation has been found for the increase during 1946 and the sharp decline of independent placements the following year. Had the increase occurred during 1947, it might have been attributed to efforts to complete adoptions prior to July 4, 1947, the effective date of the new adoption law. However, 1947 showed a decline of 10% from the previous year. One would wonder if the new law could exert such an immediate influence.

There is no consistency in the relative or step-parent group. Over a period of three years the percentage declined 4%, and then it increased 8% and remained at the same point for two years.

If one can say that trends are indicated by such gradual change in a five-year period of time, it would seem that agency placements are increasing almost as much as independent placements are decreasing. The trends are toward goals considered socially sound, but the movement is slow enough that the elimination of independent placements does not seem at all imminent.

The breakdown of figures by age groups is even less complete. Figures for 1944 - 1945 show the number of adults, babies of less than two weeks, children from two weeks to six months of age, and children above six months.

TABLE III

Ages of Individuals for whom Adoption Decrees were granted (1) in Iowa, 1944 - 1946

	1944	1945	1946
Children:			
Less than 2 weeks	40	45	95
Over 2 weeks, but less than 6 months	108	107	134
Older than 6 months	1,004	1,006	1,333
Adults	40	42	38
Totals	1,192	1,200	1,600

For other years, the tabulations showed only the complete distribution of adults and children. These tabulations by age groups were made for the purpose of drawing conclusions about the waiving or shortening of the required residence period. There is insufficient data available to give a complete picture of this situation, however. With the legislative change of 1947, the residence period was increased from six months to one year. Hence, during 1947 and 1948, a partial analysis was made of the number of infants whose adoptions were final before one year of age. The partial figures available (not included in

(1) Ibid.

Table III) seem to indicate that a majority of the independent placements were completed before the child's first birthday, thus precluding the possibility that the year's residence requirement had been observed. The 1948 data available show that 104 of 142 independent adoptions, in three of the largest counties in the state, were of infants under one year of age. (1)

One may conclude from the figures of Table III that an appreciable number of children did not have the benefit of the then required six months residence period. Also, it is startling to realize that in a three-year period (1944 - 1946), one-hundred and eighty infants had been adopted before they were two weeks old.

The annulment statistics are not available for all years, for they were not regularly compiled. The few figures available show a small number of annulments, ranging from none in some years to a high of three prior to 1947. In 1947, however, before the new law went into effect July 4, there was a relative concentration of annulments, with a total of seven. It might be speculated that the courts were trying to complete those annulments during the period when the responsibility for the child following annulment went to the State Department of

(1) Unpublished data from the State Department of Social Welfare, Iowa

Social Welfare. With the change in legislation, the responsibility of planning for the child whose adoption is terminated rests with the court approving the annulment. This change means that hereafter the State Department of Social Welfare will not necessarily know of annulments which take place.

It would be particularly interesting to compare the volume and trend of adoption placements in Iowa with those of other states as well as the entire United States. According to I. Evelyn Smith, however, "the number of children adopted each year is not known because many states have no provision for the central collection of such statistics". (1) In 1948, voluntary reporting to the United States Children's Bureau began and it is hoped that some day the overall picture will be available and some comparisons can be made.

Smith, even though saying that the number of children adopted each year is not known, makes a rather sweeping conclusion about the number of adoptions in six states in a ten-year period. Figures of the Children's Bureau show that in most of these states the number of children for whom adoption petitions were filed in 1944 is more than

(1) I. Evelyn Smith "Adoption" 1949 Social Work Year Book Russell Sage Foundation, New York, pp. 22-27

three times as great as in 1934. (1) Figures are not available about the number of children for whom adoptive petitions were filed for Iowa during the same period of time. Table I, however, shows that the number of adoption decrees granted in Iowa in 1937 and 1947, or 1938 and 1948 bear a similar ratio to the states considered about. A comparison of 561 to 1,447, or 631 to 1,675 shows increases from 1937 to 1947, or in 1938 to 1948 of almost three times.

(1) I. Evelyn Smith "Adoption" Social Work Year Book, 1947, Russell Sage Foundation, (New York) pp. 22-27

Some breakdown of the figures for the five years, 1944 to 1948, shows that there is a concentration of independent placements in the urban areas.

TABLE IV

Number of Decrees Granted in Independent Adoptions in the Five Iowa Counties having a Population of over 75,000. 1944 - 1948 (1)

County	1944 No.	%	1945 No.	%	1946 No.	%	1947 No.	%	1948 No.	%	*Population	%
Total of five counties	162	44	178	50	264	48	176	49	148	38	553,298	20.4
Polk	79	21	75	21	91	17	73	20	48	13	195,835	7.7
Woodbury	16	4	29	8	35	6	27	7	24	6	103,627	4.0
Linn	18	5	24	7	48	9	22	6	27	7	89,142	3.5
Scott	20	5	21	6	45	8	25	7	18	4	84,748	3.3
Black Hawk	29	9	29	8	45	8	31	9	31	8	65,768	1.9
State total	372		355		549		361		385		2,538,268	

Thus it can be seen from the above figures, that the five largest counties in the state, during a five-year period, had a high ratio of independent placements compared to

(1) Annual Reports, State Department of Social Welfare, Iowa, 1944 - 1948

*Population figures based on 1940 official U. S. Census

their ratio of population to the total state population. The lowest percentage of the total was in 1948, with 38% for the five counties, whose population is 22% of the total state population. The ratio was the highest in 1945, standing at just 50%. Each of these counties has at least two general hospitals, and the communities are large enough to more readily enable a girl to lose her identity in them than in some places. It would seem that the figures are consistent enough to lead one to conclude that there is a higher preponderance of independent placements in the urban centers than their population ratio bears to the whole state.

CHAPTER V

SOME CONCLUSIONS AND RECOMMENDATIONS

The Federal Security Agency publication, Essentials of Adoption Law and Procedure, 1949, (1) contains nine major essentials of good adoption. There are four of these principles which are at least partially corporated in the Iowa legislation, although they may vary somewhat in effectiveness.

One of the stated principles of adoption is that proceedings should be in a court of record having jurisdiction over children's cases, in the home state of the petitioners for adoption, and preferably in the local community in which they live and are known and where the child is properly before the court. Iowa requires that the adoption take place in a court of record (district or municipal), though not the juvenile court. It may be the same judge who presides at both adoption and juvenile hearings, however, but Iowa statute deviates from the above principle in that the legislation permits the action to take place in the county of either the child's or the adopting parents' residence. There are some out-of-state people who thus can adopt children in Iowa, and it is likewise possible for Iowa people to appear in an Iowa court in an area where they are not well known.

(1) Children's Bureau, Essentials of Adoption Law and Procedure, Washington, D. C., 1949

The principle of confidentiality is pretty carefully carried out in Iowa. The hearings are closed to the public, the court records are sealed, and many of the duplicate copies of studies are sent to the State Department of Social Welfare rather than being retained in county files. In addition, anyone excepting adopting parents or the adopted child is guilty of a misdemeanor if he discloses any information obtained from the adoption proceedings, except as authorized by order of court.

Another point of interesting comparison between Iowa law and Federal recommendations is in the area of the child's residence in the home prior to adoption. The suggested principle would require the year's residence prior to the hearing on the petition. Iowa's deviation from this standard is dual. There may be an initial hearing on the petition prior to the lapse of one year, but the final hearing is supposed to take place after the child has resided for one year in the prospective adoptive home. The other difference comes in the court's ability to waive this provision in Iowa, and this portion of the law could well be amended to agree with the recommended principle. Since neither public nor private agencies will permit placement without observation of the residence period, it is assumed that it is in the cases of independent placement that the residence is waived---- the very cases in which it would be most meaningful

to have the year of residence to determine suitability of the adoption.

This principle is closely related to another, and it is one which Iowa law does not include. In Iowa, the termination of parental rights may be voluntary, with the court action involved except in relation to the adoption itself. Signatures of release have to be witnessed, but this is quite different from taking legal action. Prior to securing the final and permanent release, many agencies accept temporary releases from the mothers of illegitimate children, feeling that the mothers thus have an opportunity to reconsider their decisions and change their plans if that is desirable. While this is undoubtedly sound case work procedure, legal sanction of permanent relinquishment of custody would eliminate many tangles which arise. In independent placements, legal sanction of termination of parental rights could preclude some hasty adoptions which are rushed through to completion before the mother has the time to reconsider and decide against release of her baby. One of the principles which has long been sought in Iowa is one suggested in the Federal publication: that only licensed agencies should make adoptive placements. Another Federal recommendation--that the social study be made by a social worker -- is not even observed in Iowa. If even that provision could be

incorporated in the law, it would help a good deal. An ideal to strive for, however, would most assuredly be to restrict placements to licensed agencies.

Iowa has no provision whatsoever for the removal of the child from the home of the adoptive petitioners if the petition is denied because their home is found to be unsuitable. The only recourse available in Iowa is through juvenile court action, on the basis of dependency, neglect, or danger of delinquency. Again, this is a piece of legislation which was sought, but it was overlooked or ignored by the legislature. It probably does not apply in a great many cases, but would offer protection to some children to whom it is not guaranteed under present legislation.

There are several other processes which could be carried out in Iowa which would strengthen the program. Some of them are administrative; others would need to be enacted by the legislature.

The State Department of Social Welfare could more extensively attempt to educate the public and particularly those people who consider themselves proficient in the field of adoption. It might be possible to include more doctors, lawyers, and judges in groups which plan and consider adoptive practices. There has always seemed to be great reluctance in Iowa to approach either the legal or medical group in any way but on the basis of individual

case discussions. It is possible that there would be professional groups who could be addressed regarding changes in adoptive procedures. Perhaps the most meaningful process, however, would be that of reaching professional people during their period of student training. If the physicians-, attorneys-, and ministers-to-be could learn something of good social work practice (including principles of adoption) during the time they are attending professional school, they might be less apt to acquire the idea that everyone but the social worker should handle adoptions. Social workers are given some introduction to the skills and prerogatives of other's professions. Why not reciprocate so that other professional people will know when to make use of a social agency?

Further interpretation and education needs to be made available to the mothers of children who are available for adoption. All too often, girls do not know of the facilities which are available, and which they would have utilized had they known of them. The maternity hospitals could well be more widely publicized so that girls would know of the protection they offer, and so that doctors would refer girls to them if social advice is sought from the doctor along with medical assistance. The general hospitals need to be convinced of the value of agency placements so that they will cooperate in referring

patients who are admitted for delivery. A variety of approaches could be used to encourage and supplement the efforts of the individual workers who have for years given case-by-case interpretation and have slowly won some professional people over to the side of agency placements.

If the hospitals are required to immediately report all illegitimate births to the State Department of Social Welfare, this will be a beginning of nipping the trouble of independent placements in the bud. Immediate referral of this information by doctors as well as hospitals would permit prompt offers of social service by an appropriate agency so that girls could know something of the alternative plans open to them. There are many cases now in which plans probably are not already formulated when the unmarried mother first goes to a doctor or enters the hospital. Little time is lost in working out independent placements in many of these cases, however, and the prompt offer of service, and its acceptance by the baby's mother, would eliminate many independent placements.

Along this line, it would be helpful if there were some way of providing for agency placement of the baby without charge to the mother, or perhaps even to the county of her residence. Some of Iowa's private agencies will offer this free service, but all too often payment is required or the mother is made to feel that she is a

"charity" case if her baby is accepted without charge for care during the period prior to placement in the adoptive home. When a girl has the alternative of placing her baby with a family who will not only take the child without expense immediately upon release from the hospital, but may also pay some of the mother's bills, it is not hard to understand why this plan is elected rather than one in which the girl must meet her own medical expenses and then pay in the neighborhood of $100.00 for her baby's care for a period of several weeks. It might even be worthwhile to consider expanding, enlarging, or modifying the state facilities for the placement of children in order to make this a free service to unmarried mothers. Since girls so often leave their own vicinity in order to prevent community people from learning about illegitimate pregnancy, why would it not be wise to provide state funds for the purpose of giving care to the girls, or at least their babies, in order to help them carry out their intended purpose?

There is no safeguard in Iowa law for the adoption which may contain some technical error. It would be desirable if, after a lapse of several years, it were impossible to contest the adoption on a technicality which was somehow overlooked at the time of the hearing.

There is a provision in the current law which the writer definitely recommends removing: the stipulation

that the name of the adopted child's natural parents shall be included in the adoption decree, a certified copy of which the clerk of court is supposed to deliver to the adopting parents. All the careful efforts to conceal identity of the child or his natural parents may be wiped out if the adopting parents are given a copy of the decree showing the names of the natural parents. Would it not suffice if the decree gave simply the child's name (preferably his new name, but if this were considered inadequate, his original name) since the sealed records may be ordered opened by the judge should further information be needed.

The variation in practice among the courts throughout the state is marked in several respects. Legally, there is no provision for uniformity in the method of notifying divorced parents regarding an adoption hearing. This practice could be standardized by law so that parents who are divorced would have some idea regarding their rights.

Administrative means, in the judicial group, could be used to establish greater uniformity regarding re-investigations, or their elimination. This procedure seems to be limited to a few judicial districts, and it might well be that a discussion of the matter by the judges would bring about a group decision which would govern future practice.

Since Chapter IV demonstrated such a lack of usable data, this seems to point up a need for the State Department of Social Welfare to establish some long-range goals in regard to collecting and studying data. These goals could be individual Iowa goals, but might well also be such that the state could cooperate in the Children's Bureau's plan of reporting statistics for an over-all picture of the country's adoption trends. The data thus made available could be used to highlight interpretation by Iowans in their efforts to ever secure better laws.

Iowa unquestionably has a long way to go before an ideal adoption program is in practice. The last two years have seen a marked change, however, and a slowly growing awareness of the assistance shich social workers can give in the field of adoption. Even if the above recommendations are not put into effect, but present practices are merely continued, it is possible that the independent placements will continue to dwindle and the agency placements to grow. And certainly this is one of the hopeful, though small, trends in the picture today!

APPENDIX

FROM REVISION OF 1860 CODE OF IOWA

Chapter 107

Adoption of Children
An Act to authorize and regulate the Adoption of Children. (Passed March 16, 1858, in force March 24, 1858; Laws of Seventh Session, Chapter 67, page 102.)

Section 2600. (1.) Be it enacted by the General Assembly of the State of Iowa, any person competent to make a will is authorized in manner hereinafter set forth, to adopt as his own, the minor child of another, conferring thereby upon such child all the rights, privileges, and responsibilities which would pertain to the child, if born to the person adopting in lawful wedlock.

Section 2601. (2.) In order thereto, the consent of both parents, if living and not divorced or separated, or if unmarried, the consent of the parent lawfully having the care, and providing for the wants of the child, or if either parent is dead, then the consent of the survivor; or if both parents be dead, or the child shall have been and remain abandoned by them, then the consent of the mayor of the city where the child is living, or if not in a city, then of the county judge of the county where the child is living, shall be given to such adoption, by an instrument in writing, signed by the parties or party consenting, and stating the names of the parent, if known, the name of the child, if known, the name of the person adopting such child, and the residence of all if known, and declaring the name by which such child is

hereafter to be called and known, and stating also that such child is given to the person adopting, for the purpose of adoption as his own child.

Section 2602. (3.) Such instrument in writing shall be also signed by the person adopting, and shall be acknowledged by all the parties thereto in the same manner as deeds affecting real estate are required to be acknowledged: provided, that when both parents of the child execute the same, the mother shall be examined apart from her husband, by the officer taking the same, and he shall certify whether or not she executed the same freely and without compulsion or undue influence of her husband, and if not the instrument shall not be valid; and when duly acknowledged, the same shall be recorded in the county where the person adopting resides in the office, and with the record of deeds of real estate, and shall be indexed with the name of the parent by adoption as grantor, and the child as grantee in its original name if stated in the instrument.

Section 2603. (4.) Upon the execution, acknowledgment and record of such instrument, the rights, duties, and relations between the parent and child by adoption shall thereafter in all respects, including the right of inheritance, be the same that exist by law between parent and child by lawful birth.

Section 2604. (5.) In case of maltreatment committed or allowed by the adopted parent, or palpable neglect of duty on his part, toward such child, the custody thereof may be taken from him and entrusted to another at his expense if so ordered by the court, and the same proceedings may be had therefor so far as applicable as are authorized by law in such a case in the relation of master and apprentice, or the court may, on showing of the facts, require from the adopted parent, bond with security, in a sum to be fixed by him, the county being the obligee, and for the benefit of the child, conditioned for the proper treatment and performance of duty toward the child, on the part of the parent: provided, that no action of the court or judge in the premises shall affect or diminish the acquired right of inheritance on the part of the child, to the extent of such right in a natural child of lawful birth.

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