

Adoption Advocate



No. 014
June 2009

a publication of the National Council For Adoption

On the Benefits of a National Putative Father Registry

Marc Zappala

In 1972, The U.S. Supreme Court ruled in *Stanley v. Illinois* that equal protection requires state law to treat the unmarried father and mother of a child equitably. This decision overturned decades of legal tradition which viewed the mother's wishes in such instances as paramount. Since that ruling, society has continued to wrestle with the question of how to balance the parental rights of unmarried fathers with the parental rights of unmarried mothers while promoting the best interests of their children.

Two high-profile child custody battles in the early and mid 1990s involving children placed for adoption without their biological fathers' knowledge or consent increased public awareness of this issue. In both disputes, dubbed the "Baby Jessica" and "Baby Richard" cases by the media, the biological father was ultimately awarded custody of the child. These judicial decisions reinforced the shift marked by *Stanley v. Illinois* toward equal consideration of an unwed father's and unwed mother's parental rights.

Partially in response to these cases, some state legislatures enacted putative father registries designed to notify men when a child whom they may have fathered is placed for adoption. Men in these states who are engaging in extramarital sexual relations with a woman have the option of submitting their names and contact information, as well as the names of their sexual partners, to these registries. The names of unmarried women making adoption placements for their children are then checked against the information in the state's registry. If there is a match, the putative father is informed and given the opportunity to exercise his parental rights.

These registries serve two purposes. First, they act as a safety net to protect the rights of unmarried fathers—the existence of which, it must be noted, does not absolve unmarried women of their moral responsibility to involve a child's biological father in the decision making process. Second, these registries lessen the odds that a putative father will

contest a child's adoption once the process has begun – as happened in the "Baby Jessica" and "Baby Richard" cases – and help spare all parties the trauma of a disrupted adoption and custody battle.

The Need for a National Putative Father Registry

A weakness of state putative father registries is that they don't protect the rights of putative fathers when the mother makes an adoption placement for the child in a state other than the one in which the putative father has registered. For example, if a child is conceived in New Mexico, and the mother moves to Texas before deciding to make an adoption placement for her child, the father's name will not turn up in the Texas state putative father registry when she begins the process of making the adoption placement. Hypothetically, the mother could then place the child for adoption without the father ever knowing of the child's existence.

The solution to this shortcoming may lie in a bill entitled the "Protecting Adoption and Promoting Responsible Fatherhood Act of 2009," recently introduced by Senator Mary Landrieu (D-LA). If enacted, this bill would provide grants to states to assist in the creation of state putative father registries and mandate the creation of a national putative father registry. States receiving such grants would be required to submit information entered into their state putative father registries to a national putative father registry within three business days of the states receipt of said information. This information would then be made available to public and licensed private adoption or child placement agencies, licensed attorneys, and state agencies involved in child placement services throughout the country. Such agencies and attorneys would be required to perform search requests in the national putative father registry during the course of an adoption. They would then be required to provide notice of any impending proceedings related to a

planned adoption, the termination of a putative father's rights to a child, the entry of a child into state custody, or the establishment of paternity to any and all putative father so identified. Finally, the bill would provide funds for a national media educational campaign to inform men and women of the existence of the National Putative Father Registry, its purpose, and the advantages of registering.

In conclusion, the Protecting Adoption and Promoting Responsible Fatherhood Act of 2009 will ensure that men are given the opportunity to exercise or waive their parental rights to any children they have fathered outside of wedlock. It will also help to reduce the number of adoptions being disputed or disrupted by biological fathers who were not made aware of their children's existence until after an adoption plan had been made. Child welfare advocates should support this legislation, as its passage would be a significant step toward protecting fathers' rights and a child's interest in a smooth and timely adoption.