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In Support of HB 2482
Presented January 31, 2012 to House Judiciary Committee

Amendments to address issues raised in recent case law:

- To ensure that fathers are held to a standard of significant support in all termination cases. *Adoption of Baby Girl P.*, 291 Kan. 424. *Previous Case Law*- Father must take whatever action possible to show in interest in the mother during her pregnancy and in the child after birth. Briefly, "Talk is Cheap". Now we are not so sure.
- To codify that knowledge of "pregnancy or possible pregnancy" is sufficient to put a father on notice of his responsibility to support. *Baby Girl B.*, 46 Kan.App.2^d 96
- To codify the standard for trial courts in stepparent adoption terminations to consider the "totality of the circumstances" rather than only whether the parent has failed to fulfill financial OR emotional duties. *In re J.M.D. and K.N.D.*, 293 Kan. 153
- To allow consideration of best interest of the child in a determination of whether a parent's rights should be terminated in stepparent adoptions. *Multiple cites.*

Amendments to address long-standing issues in existing statutes:

- To allow a consideration of fitness to parent in stepparent adoption terminations rather than only failure to assume duties of a parent.
- In agency adoptions, to clarify that a relinquishment by a parent to an agency must be voluntarily given. Existing statute indicates a relinquishment operates as a termination of rights without reference to voluntariness.
- In agency adoptions, to clarify that if one parent relinquishes, but the other objects and prevents the adoption finalization, relinquishing parent regains rights and both go back to their original positions. Existing statute does not address such a situation.
- If an adoption is disallowed for any reason, to clarify that the trial court may consider exigent circumstances in determining who will care for the child.
- To provide the trial court options and guidelines for assessment of fees for an attorney appointed to represent a parent in an adoption.

January 30, 2012

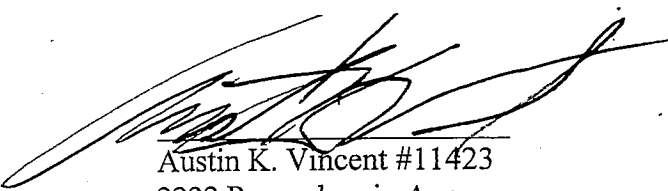
The undersigned attorneys and social workers strongly urge your committee to forward HB No. 2482 to the full House of Representatives and to recommend its passage to amend the Kansas Adoption and Relinquishment Act.

Kansas has historically been recognized in the United States for having clear standards for adoptions. This enabled birth mothers, birth fathers, adoptive parents, adoption agencies and state agencies to make thoughtful decisions about permanency for children. Unfortunately, the Kansas appellate courts have concluded recent amendments to the adoption statute were not clear and that, until the Legislature amended the statute, they would construe the adoption statutes with a presumption toward preserving parental rights even in situations where the father killed a child in his care or was unfit. *Adoption of G.L.V.*, 286 Kan. 1034, 190 P.3d 245 (2008); *In the Matter of J.M.D.*, 293 Kan. 153, 260 P.3d 1196 (2011). The existing statute also makes it risky for a birth mother to sign a relinquishment if a birth father might object to the adoption where no such risk exists if she signs a consent to an adoption. *Strong v. Treiber*, 5 Kan. App. 2d 392, 617 P.2d 114 (1980).

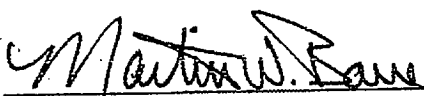
The standards for what a birth father should do to preserve his parental rights has been made unclear even if he knows of a possible pregnancy. Finally, several states apply the exigent circumstances doctrine in addressing the protections of the child if an adoption fails. The Kansas appellate courts would not recognize the doctrine without Legislative reference to the doctrine. *Adoption of Baby Boy M.*, 217 P.3d 1018 (2010).

House Bill No. 2482 addresses each of the key uncertainties that the Kansas appellate courts have noted or created in ways that should return Kansas statutes to the earlier clarity about each participant's rights. The Kansas Adoption and Relinquishment Act should be amended to recognize the proper balance between the rights of the birth mother to determine adoption is in the child's best interest and the rights of the birth father to prevent an adoption only if he has conducted himself within the statutory standards. *Caban v. Mohammed*, 441 U.S. 380 (1979). That balance has been skewed and muddled in favor of birth fathers who have done little, if anything, to support the mother by how the last amendments were enacted and then construed or rejected by the Kansas appellate courts. *Adoption of Baby Girl P.*, 291 Kan. 424, 242 P.3d 1168 (2010); *Adoption of B.B.M.*, 290 Kan. 236, 224 P.3d 1168 (2010).

We encourage you to forward HB No. 2482 to the full House and recommend its passage. Each of the undersigned could tell you heart-rending experiences of their client birth mothers, birth fathers, adoptive parents, or agencies who have seen the interests of the permanency and best interests of the child lost because of the existing uncertainties in the Kansas Adoption and Relinquishment Act. Your attention to resolving these uncertainties is appreciated.

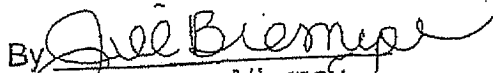


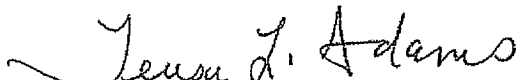
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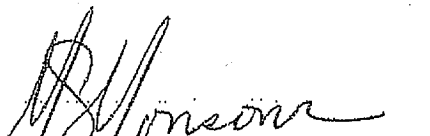


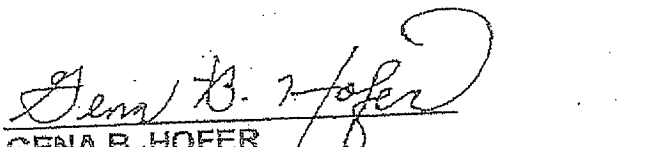
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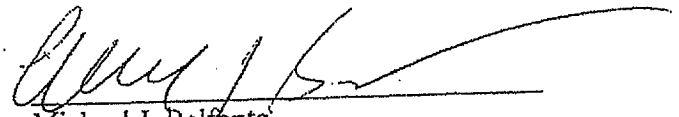
By 
Jill Bremyer, Attorney


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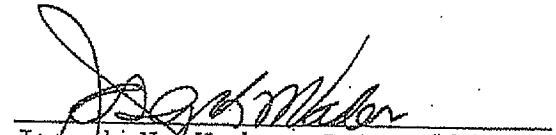

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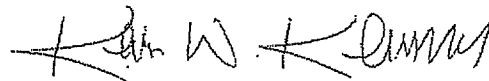
JOSEPH N. VADER, P.A.

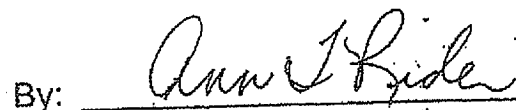

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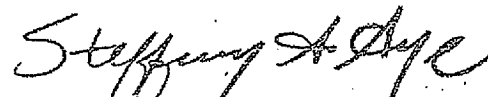

Susan K. Timmons, LSCSW
Director of Child Placement
Christian Family Services of the Midwest, Inc.

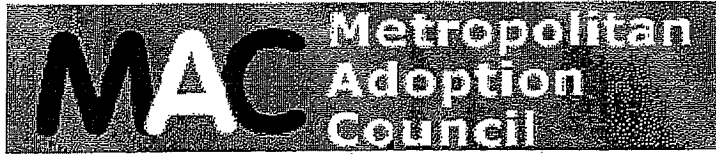

Rachael K. Pirner
Triplett, Woolf & Garretson, LLC

KEVIN W. KENNEY, P.A.


Kevin W. Kenney

By: 
Ann T. Rider (12507)
Attorney at Law


ADOPTION AND BEYOND



January 26, 2012

To Whom It May Concern:

The members of the Metropolitan Adoption Council, a Coalition of Adoptions Agencies and Professionals in the Greater Kansas City Area, are writing to support proposed House Bill No. 2482, which seeks to amend acts concerning adoption and relinquishment laws in the state of Kansas, particularly K.S.A. '59-2124 regarding relinquishment rights, '59-2134 regarding both the process if an adoption is denied and indigent parent attorney's fees and '59-2136 regarding termination of parental rights.

The Metropolitan Adoption Council is composed of more than 25 members in the private and public spheres. They include adoption attorneys and agencies as well as adoption education, counseling and support groups at two levels of membership: (1) full members who are licensed child placing agencies and public agencies and (2) associate members who have shown an interest and involvement in adoption practices and concerns. The coalition was formed in 1970 for the purposes of:

- Encouraging cooperation and networking among adoption practitioners and community resources to facilitate the placement of all children awaiting adoption.
- Providing training, education and support regarding adoption for Metro members and the community.
- Serving as a resource in the community to promote awareness of adoption issues and practices.
- Advocating at the local and state level for quality adoption practices and adoption concerns.

It is with these tenets in mind that the members of the Metropolitan Adoption Council write to you in support of House Bill No. 2482. The members of our Council believe that the proposed bill will more clearly indicate the rights of and the processes to terminate the rights of birth fathers. Prior to a series of prior amendments and intervening court cases, there was a much clearer basis on which someone could correctly advise a birth mother, birth father or prospective adoptive parents on whether and how an adoption could proceed. That certainty has been lost. Everyday the uncertainty continues makes it more difficult and less sure on how to achieve permanency for the children, the parents or adoptive parents more difficult. For example, if the birth father might object, the existing statute leaves a birth mother at risk if she signs a relinquishment of her rights where no such risk exists if she signs a consent. For adoptive parents, the standards for whether a birth father's rights can be terminated have been made uncertain. The Kansas Supreme Court invited the Legislature to address this uncertainty. HB2482 does so in a very simple but positive way.

We ask your Committee to recommend HB2482 for consideration by the full House.

Best Regards,

Shawn Kane, President on Behalf of the Members of the Metropolitan Adoption Council



Private Member Agencies

A Child's Dream

305 SE 17th St., Ste. C
Topeka, KS 66607
(785) 213-2342

Adoption & Beyond, Inc.

16236 Metcalf Ave.
Overland Park KS 66085
(913) 381-6919

Adoption & Counseling Services for Families, Inc.

10890 Nieman Rd.
Overland Park, KS 66210
(913) 339-6776

Adoption & Fertility Resources

Missouri:
1129 B Kansas
Liberty, MO 64068
(816) 781-8550 (Liberty Office)

Adoption Option, Inc.

7300 W. 110th St., Ste. 925
Overland Park, KS 66210
(913) 642-7900

American Adoptions, Inc.

9101 W. 110th St., Ste. 200
Overland Park, KS 66210
(913) 383-9804

Catholic Charities of K.C.-St. Joseph, Inc.

301 E. Armour, #650
Kansas City, MO 64111
(816) 931-9399

Catholic Charities of K.C.-St. Joseph, Inc.

1112 Broadway
Kansas City, MO 64105
(816) 221-2178

Catholic Charities of Northeast Kansas

234 South Kansas Ave.
Topeka, KS 66603
(785) 233-6300
1 (800) 227-3002

Christian Family Services of the Midwest, Inc.

10500 Barkley, Suite 216
Overland Park, KS 66212
(913) 383-3337

Cornerstones of Care

Foster Care Case Management Services
3100 Main St., Ste. 206
Kansas City, MO 64111
(816) 508-6206

Downey Side 1 West Armour Blvd., Ste. 16

Kansas City, MO 64111
(816) 531-5465

Hannah's Dream Adoptions

6240 W. 135th Street, Ste. 200
Overland Park, KS 66223
(913) 850-9368

Holt International Children's Services

203 Huntington Rd.
Kansas City, MO 64113
(816) 822-2169

Kansas Children's Service League

3545 SW 5th St.
Topeka, KS 66606
(785) 274-3100

LDS Family Services

517 W. Walnut, Ste. 2
Independence, MO 64050-3738
(816) 461-5512

The LIGHT House, Inc.

400 W. Meyer Blvd.
Kansas City, MO 64113
(816) 361-2233



Public Member Agencies

KANSAS:

***KANSAS DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES:***

Kansas City Metro Region
400 State Ave.
Kansas City, KS 66101
(913) 279-7380

ICAMA
915 SW Harrison
5th Floor South
Topeka, KS 66612
(785) 296-0918

Kansas Dept. of Health & Environment
Child Care Licensing & Administration
1000 SW Jackson, Ste. 200
Topeka, KS 66612-1274
(785) 368-7125

KS ICPC Unit-
915 SW Harrison
5th Floor South
Topeka, KS 66612
(785) 296-0918

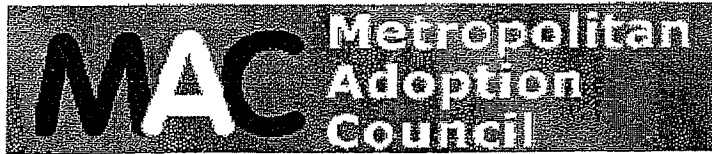
MISSOURI:

MISSOURI CHILDREN AND FAMILY SERVICES:

Clay County Office
7000 Liberty Dr.
Liberty, MO 64068
(816) 781-8900

Jackson County Office-Downtown
615 E. 13th St.
Kansas City, MO 64106
(816) 889-2042 or (816) 889-2426

ICPC Unit, Children's Services
Children and Family Services
P.O. Box 88
Jefferson City, MO 65103
(573) 751-2981



Member Attorneys

Missouri Member Attorneys

Karen S. Rosenberg
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Kansas City, MO 64111
(816) 756-5800

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Kansas City, MO 64114
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Kansas City, MO 64111
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Kevin W. Kenney, P.A.
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Prairie Village, KS 66208
(913) 671-8008

ADOPTION CONNECTIONS, INC.
105 E. RHONDDA
ANDOVER, KS 67002
(316)733-6711

Austin K. Vincent
Attorney at Law
2222 Pennsylvania Ave
Topeka, KS 66605-1255

January 25, 2012

Re: H.B. 2482

Dear Mr. Vincent,

I serve as Director and General Counsel for Adoption Connections, Inc., a licensed agency in the Wichita area. We place approximately 45 babies for adoption each year. We support the adoption code changes proposed in H.B. 2482.

The changes bring clarity and avoid ambiguity as to the rights and responsibilities of all parties to an adoption proceeding. This, in turn, will prevent unnecessary litigation and guidance to the court concerning both substantive and procedural issues. We urge passage of H.R. 2482.

Sincerely,

Richard J. Peckham
Director/General Counsel



American Adoptions

National Office
9101 W. 110th St., Suite 200
Overland Park, KS 66210
1.800.ADOPTION
www.americanadoptions.com

January 25, 2012

To Whom It May Concern:

I am writing to you today in support of HB 2482, an act concerning the Kansas Adoption and Relinquishment Act; relating to parental rights, which has been introduced and referred to the Committee on Judiciary.

American Adoptions is one of the largest domestic adoption agencies in the nation, working across all 50 states. Moreover, our agency's roots are in the State of Kansas, having been founded by a Kansas family whose own experiences in serving as foster parents to over 100 Kansas children lead them to begin American Adoptions. Today American Adoptions is licensed in several states, including Kansas, and is an accredited adoption agency specializing in newborn domestic adoption.

Each year, our agency is involved in over 300 adoptions across the U.S. In our years of experience in working across all 50 states, our agency has found Kansas to be one of the nation's greatest states in regards to adoption laws. Through the support of the state government, Kansas is one of the best states in the nation to complete an adoption in and you have our express gratitude for making Kansas such a pro-adoption state.

However, Kansas now has the opportunity to not just be one of the nation's best with regards to adoption laws, but – in our opinion – the nation's leader. We believe that by strengthening and improving the Kansas laws regarding adoption as outlined in HB 2482 will propel Kansas to be the nation's foremost leading state in favor of adoption.

Thousands of Kansas families have been touched by adoption – including that of Governor Sam Brownback and even myself, who is currently in the process of adopting. I thank you for your consideration of HB 2482 and would urge you to support this measure on behalf of the numerous Kansas families who choose adoption.

Sincerely,

Shawn Kane
Executive Director, American Adoptions



Christian Family Services

"Helping Children and Families Find a Better Life"

10500 Barkley, Suite 216, Overland Park, Kansas, 66212

*Serving Children & Families
for over 30 years*

January 26, 2012

RE: House Bill 2482

To Whom It May Concern:

I am writing to voice my support of House Bill 2482 which will amend current legislation regarding adoption law. These amendments are timely and necessary to ensure that children will not be removed unnecessarily from their loving adoptive homes as happened recently in Baby Girl B and Baby Girl P.

A father who wishes to assert paternity and be a child's father must do more than "offer" support or provide insignificant support. Knowledge of a "possible" pregnancy should also be as effective as knowing that the mother is truly pregnant. It is important that the court consider and weigh the best interest of the child as well as disregard incidental visitations, contacts, communications or contributions. Who is speaking for the best interests of the child now? I recently met with the devastated adoptive parents of Baby Girl B and this was one of their concerns as well.

It is also critical that birthmothers who execute relinquishments for adoption, hoping to give their children a loving and stable adoptive family, not be penalized for the self-sacrifice they have made in wanting the best for their children. Having worked with birthparents for almost 30 years I can attest that they have made adoption plans because they believe this is what is best for the child. They love their children and are willing to make a very difficult personal sacrifice to ensure that they have the best home possible. Should it not be possible to terminate the birthfather's rights so that an adoption can be finalized, the birthmother should have every right to parent her child and her prior voluntary relinquishment not be held against her.

This bill will go a long way towards improving adoption law in Kansas. I respectfully ask that it be considered.

Sincerely,

Susan K. Timmons, LSCSW
Director of Child Placement

The Law Office of
ALLAN A. HAZLETT
Past President American Academy of Adoption Attorneys
Fellow American Academy of Adoption Attorneys

Peggy Hazlett, Legal Asst.

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Allan Hazlett, JD

Attorney at Law

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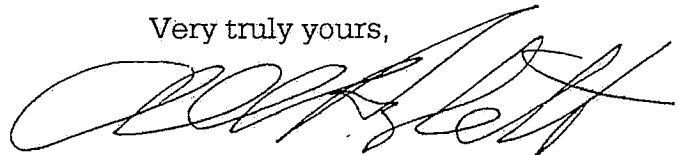
Peggy: unkanfam@aol.com
Allan: ksadoptlaw@aol.com

January 30, 2012

State of Kansas
House Judiciary Committee

I am writing to request that the committee favorably pass House Bill No. 2482. It addresses many troublesome issues that need to be clarified.

Very truly yours,



Allan A. Hazlett

AAH:pjh

GENA B. HOFER
Attorney At Law

10500 Barkley, Suite 216
Overland Park, KS 66212

Telephone (913) 707-6170
Fax (818)762-1367

Re: HB No. 2482

Dear Kansas House of Representatives Committee Members:

I write to you in strong support of HB No. 2482 regarding the Kansas Adoption and Relinquishment Act. I am the attorney for the adoptive parents of Baby Girl B, (In re Baby Girl B., 46 Kan. App. 2d 96, 261 P.3d 558 (2011)). I have been an adoption attorney for 23 years.

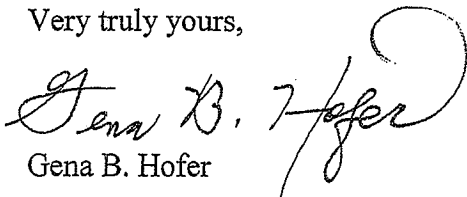
As you may be aware, Baby Girl B was removed from her adoptive parents' home at 21 months old and returned to her biological parents. Needless to say, it has been a tragic experience for Baby Girl B and the only family she has ever known. No one involved in the case will ever be the same.

Kansas adoption practitioners have always prided themselves on having the best adoption law in the country. However, the recent turn of events in the case law has made it necessary to clarify our existing statute. The changes proposed specifically address the vagueness and will prevent further heartache from occurring in our great state.

I respectfully encourage you to forward HB No. 2482 to the full House and recommend its passage.

Thank you for your kind attention.

Very truly yours,


Gena B. Hofer

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January 27, 2012

To Members of the Committee:

I represented the adoptive parents at all levels of the case now known as *Baby Girl P.* The District Court terminated the parental rights of the birth father for his failure to support the child for five month after being notified of the child's birth. Despite having multiple opportunities and the wherewithal to do so, birth provided next to nothing for the support of the child. The Kansas Court of Appeals upheld the decision of the District Court. The District Court and the Court of Appeals relied on a large body of case law interpreting K.S.A. 59-2136 to reach their conclusions.

In my view, the Kansas Supreme Court departed from precedent to reverse both of the lower courts and place custody of the nearly two and one-half year old child with the birth father. In addition to finding that the birth father's paucity of support (baby items of de minimis value and a Christmas card) was sufficient to preserve his parental rights, the Court also seemed to find that a mere offer of support deserved consideration.

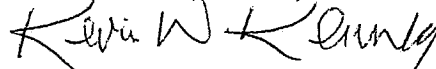
The written word cannot convey the devastation my clients experienced because of this decision. They are grateful for the opportunity to tell you in person.

The *Baby Girl P.* case is the impetus for the proposed addition of K.S.A. §59-2136(h)(1) (j), requiring an actual tender rather than an offer of support by a birth father. I urge you to approve this proposed change. I also urge you to adopt the other suggested changes to the Kansas Adoption and Relinquishment Act. All of them return the focus of the KARA to the best interests of the child.

Thank you for your time and consideration.

Very truly yours,

KEVIN W. KENNEY, P.A.



Kevin W. Kenney