

# Birthfather Registries—Good News!

**Q** We're planning to adopt a baby and have heard stories about birthfathers coming forward at the last minute to disrupt adoptions. Is anything being done about this?

**A** Over the past 10 years, many states have enacted birthfather registry laws, both to protect the rights of birthfathers and to enable adoptions to go forward with assurance. With the highly publicized and wrenching case of Baby Jessica in the early 1990's, the rights of unmarried birthfathers to consent to the adoption of their children gained attention. Baby Jessica's birthmother originally misidentified the birthfather, and when the actual birthfather became aware of his paternity, he was able to assert his parental rights and eventually disrupt the adoption of then 2-year-old Jessica. Subsequently, over 30 state legislatures enacted putative (i.e., presumed) father registries to address such situations.

The registries work by requiring a would-be father to notify the registry, a state-maintained database, of his name and address and the names of the birthmother and child, if already born. Prospective adoptive parents must then search the registry for the names of the mother and the child. If the search reveals a registered father, the attorney or agency must provide him legal notice of the adoption proceeding at the address he provided. The father can then come forward in a timely manner to assert his parental rights or to terminate them.

The putative father registry approach has three purposes. First, it protects the father's parental rights by providing him notice of pending adop-

tion proceedings. Second, it defends the mother's privacy rights because she is not obligated to identify the father or notify him of the pregnancy. Third, it protects the child's and adoptive parents' rights to a secure adoption by requiring men to assume parental duties or to terminate their rights in a timely manner, so that children may safely develop ties to adoptive parents without risk of disruption.

State putative father registry laws impose the responsibility of coming forward to assert paternity totally on the father. The United States Supreme Court has held that a putative father registry is constitutional in its placement of responsibility on the man.

Because putative father registries are established by state law, they vary from state to state in their particular features. Some states permit pre-birth registration, some publicize their registries, and most guarantee notice of the adoption to the father only if he files within a set time limit – that is, prior to the birth or within so many days after the birth (for example, Nebraska 5 days, Missouri 15 days, Arizona 30 days). These time limits means that a registered father can challenge an adoptive placement only at a very early stage before significant time elapses in which bonding between child and adoptive parents occurs.

Exceptions do exist. Some states provide an exception to the registry requirement if the mother or her family actively deceived the father in his efforts to investigate whether he conceived a child. Some states provide an exception to the registry requirement if the mother surreptitiously moved out of state to deliver her child. Additionally, constitutional guarantees protect those fathers who have already assumed parental responsibilities or have already established relationships with their children.

Individual state registries, however, cannot protect birthfathers in situations involving more than one state, because registration in the state of conception will not insure notice of adoption proceedings in a second state. Only a registry with a national database could provide such connections. Senator Mary Landrieu (D-LA) has convened a working group to develop proposed federal legislation for a national putative father registry to fill the current gaps.

What if state registries and a national putative father registry database had existed at the time of Baby Jessica's case? The biological mother and father were residents of Iowa. Jessica's father did know of the pregnancy and he would have filed with the Iowa registry, which would have automatically transmitted the information to the national registry. The adoptive parents were from Michigan. With a national registration system, whether the adoption petition had been filed in Iowa or Michigan, notice of the planned adoption would have been sent to the birthfather. He could have intervened in the proceedings, and the placement probably would never have happened. On the other hand, had the father not filed with the registry, Iowa or Michigan would have prevented him from disrupting the adoptive placement at a later time. Both Iowa and Michigan enacted putative father registry laws after Baby Jessica. **AF**

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