

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814



November 16, 1992

ALL-COUNTY LETTER NO. 92-100

TO: ALL COUNTY WELFARE DIRECTORS
ALL PUBLIC AND PRIVATE ADOPTION
AGENCIES
SDSS ADOPTIONS DISTRICT OFFICES

<u>REASON FOR THIS TRANSMITTAL</u>	
<input type="checkbox"/>	State Law Change
<input type="checkbox"/>	Federal Law or Regulation Change
<input type="checkbox"/>	Court Order or Settlement Agreement
<input type="checkbox"/>	Clarification Requested by One or More Counties
<input checked="" type="checkbox"/>	Initiated by SDSS

SUBJECT: FULL-SERVICE (CUSTODIAL) AND NONCUSTODIAL ADOPTION AGENCIES

The purpose of this All-County Letter is to address several inquiries the Department has received regarding adoption services provided by full-service (custodial) adoption agencies and noncustodial adoption agencies, respectively.

As background, it is instructive to review key statutory and regulatory provisions governing full-service and noncustodial adoption agencies. Health and Safety (H&S) Code Section 1502(a)(9), Civil Code (CC) Section 220.20(h), and Title 22 California Code of Regulations (CCR) Section 35000(f)(8)* define a full-service (custodial) adoption agency as:

Any licensed entity engaged in the business of providing adoption services, which does all of the following:

- (1) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child;
- (2) Assesses the birth parents, prospective adoptive parents, or child;
- (3) Places children for adoption; and
- (4) Supervises adoptive placements.

*All references to regulations sections herein are to Title 22 CCR.

H&S Code Section 1502(a)(10), CC Section 220.20(1), and Regulations Section 35000(n)(1) define a noncustodial adoption agency as:

Any licensed entity engaged in the business of providing adoption services, which does all of the following:

1. Assesses the prospective adoptive parents;
2. Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved prospective adoptive applicants; and
3. Cooperatively supervises adoptive placements with a full-service adoption agency, but does not disrupt a placement or remove a child from a placement.

In the context of the Interstate Compact on the Placement of Children (ICPC), Regulations Section 35400(r)(2) defines "receiving agency" as a licensed adoption agency or SDSS Adoptions district office that is designated to receive any child from another party state for the purpose of adoption.

CC Section 220.20(k) defines "licensed adoption agency" as an agency licensed by the department to provide adoption services, including a licensed private adoption agency.

The inquiries have raised the following issues:

1. May an out-of-state adoption agency place a child (who is under its legal care, custody and control) in California through the ICPC via agreement with a California licensed, noncustodial adoption agency's family? Under this scenario, the adoption would be finalized in California and the adoptive placement pending finalization would be cooperatively supervised by the California noncustodial adoption agency.

Response:

No. Since the out-of-state adoption agency is not licensed by the Department to provide adoption services in California, it is precluded from placing its child in California. In order for the out-of-state adoption agency to place a child (who is under its legal care, custody and control) in California through the ICPC, there must be a California adoption agency acting as a receiving agency that is authorized to place the child in California.

A noncustodial adoption agency, as defined in H&S Code Section 1502(a)(10), CC Section 220.20(1), and Regulations Section 35000(n)(1), can only cooperatively match and cooperatively supervise placements of a child under the care, custody and control of a licensed adoption agency; it cannot place a child for adoption.

Thus, a noncustodial adoption agency cannot receive a child from an out-of-state agency and place the child in the home of a California family on behalf of the out-of-state agency as it would be beyond the scope of its license as a noncustodial adoption agency.

2. In the circumstances described in Question No. 1, would the out-of-state adoption agency still retain care, custody and control of the child?

Response:

Yes. Under the ICPC, the out-of-state agency retains legal care, custody and control of the child. See CC Section 265, Article 5(a).

3. May a California licensed, full-service adoption agency place a child who is under its legal care, custody and control with a California licensed, noncustodial adoption agency's family outside the full-service adoption agency's licensed service area? Under this scenario, the adoptive placement pending finalization would be cooperatively supervised by the noncustodial adoption agency.

Response:

No. The noncustodial adoption agency, as defined in H&S Code Section 1502(a)(10), CC Section 220.20(1), and Regulations Section 35000(n)(1), can only cooperatively match and cooperatively supervise a placement with a full-service adoption agency; it cannot place a child for adoption. Since the full-service adoption agency is not licensed to provide services in the county where the family resides, it cannot place a child under its care, custody and control in that county unless a cooperative agreement is made with another adoption agency licensed to place children (i.e., full-service adoption agency) in the area where the adoptive family resides.

If you have any questions about these issues, please contact the Adoptions Policy Bureau at the above address or (916) 322-4228 (ATSS 492-4228).



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