

**LISA'S LEGACY Tightening Loopholes Adoption reforms made law. See end of text for sidebar-A
Look at the Lisa Law Series: LISA'S LEGACY. Last in a series**

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Abstract (Abstract): The attention on adoption reform is national. Other states are also talking about changes in their adoption rules. In California, for example, a bill to fingerprint adoptive parents before placement is expected to pass next year, while a program to encourage parents adopting privately to agree to a study of their homelife, called home studies, before a child is placed for adoption is also under discussion, said state adoption official James Brown.

A Manhattan grand jury which this spring indicted Dr. Peter J. Sarosi, the obstetrician involved in the Steinberg case, is still sitting and will issue adoption reform recommendations some time after Steinberg's trial and Sarosi, who pleaded guilty to an illegal adoption placement, is sentenced. But a similar grand jury issued a similar report 10 years ago, and almost none of its recommendations were enacted.

Before this law was enacted, prospective adoptive parents with physical custody of a child were in a legal limbo with no formal guardian rights until the adoption was finalized. Moreover, while prospective adoptive parents generally quickly filed petitions for adoption, no laws required them to do so, or even required them to notify the court that they had taken custody of a child. This law gives guardianship rights both to adoptive parents filing for adoption and to those who apply for temporary guardianship pending the filings. And it requires that the court be quickly notified that the couple has the child so that court review of the placement can begin. Source: Laws of New York 1988, Chapter 557.

Full text: SEE SIDEBAR: Emotional Roller Coaster

Few people suggest that Joel Steinberg - now on trial in the beating death of Lisa, the child he raised but never legally adopted - and his battered companion, Hedda Nussbaum, are typical of couples seeking to adopt a child.

But the tragedy of Lisa's death left many wondering whether the flourishing practice of private adoptions had loopholes that somehow permitted such a couple to get hold of a child.

"It's been a tumultuous year," said Manhattan adoption attorney Frederick Magovern. "The Steinberg case, which was really an alleged abuse case, has given adoption a bad name and frightened a lot of people, both birth parents and adoptive parents and the courts."

In the year since Lisa's battered body was found in Steinberg's filthy Greenwich Village apartment, however, reform of the adoption law and regulations has come slowly and piecemeal, legal experts say.

A new state law, dubbed the "Lisa Law," now requires prospective parents to speedily begin adoption proceedings after taking a child into the home, or getting temporary guardianship. Previously there were no limits on how long adopting parents could wait before notifying a judge and undergoing court review, which includes a report from the state's child abuse registry listing people charged with child abuse.

And some of the state's surrogate and family court judges are themselves tightening up adoption procedures for cases they handle.

But these steps fall short of a uniform and consistent reform of an adoption system last overhauled 50 years ago.

"We would have thought at least a little good would have come out of Lisa's death and that would have been some swift action by the New York Legislature to close up some of the glaring holes in the private adoption system," said Jeff Rosenberg, director of adoption services for the National Committee for Adoption, a nonprofit

group based in Washington, D.C., that primarily represents adoption agencies. "But to our dismay and to the dismay of many others, {almost} nothing has happened."

But there is also concern, especially among those who see private adoptions as an important alternative, that new laws must not make adoption so difficult that they discourage good people - the vast majority of adopting parents - from obtaining children.

Donald Scharf, a Long Island psychotherapist specializing in adoptions, and himself an adoptee and an adoptive father, said, "We don't want the pendulum to swing the other way so that it's more complicated and more expensive to adopt children. There are children who need homes and people who desperately need these children."

The new law, in any case, would have done little to stop Joel Steinberg, who circumvented the adoption system altogether. Steinberg assured the birth mothers that he, as an attorney, would place their children with nice families for adoptions. Instead, he kept the infants without adopting them.

Vincent Schmidt, adoption clerk for Queens Family Court, cautioned, "If you don't bring to the court's attention that you intend to adopt, there really isn't very much we can do. Because the natural parent can turn custody over to anyone she wants to."

The attention on adoption reform is national. Other states are also talking about changes in their adoption rules. In California, for example, a bill to fingerprint adoptive parents before placement is expected to pass next year, while a program to encourage parents adopting privately to agree to a study of their homelife, called home studies, before a child is placed for adoption is also under discussion, said state adoption official James Brown. The scrutiny of private adoptions is made more urgent as increasing numbers of people turn to private adoptions to find healthy white newborns. While traditional adoption agencies are growing more flexible regarding whom they'll accept as adoptive parents, they don't have many white infants to offer.

Some adoption court clerks in the New York area estimate that anywhere from 40 percent to the majority of white newborn adoptions are done privately.

The practice's reputation has been tainted with suggestions of baby-buying and enormous fees. Attorneys and advocates estimate, however, that couples can find babies independently and legally for an average cost of around \$10,000, although advertising for a baby could boost that cost substantially.

Adoption agencies screen prospective parents with extensive interviews and home studies. And the birth mother is provided counseling and medical care and gives up custody of her child to the agency before the infant is placed with an approved couple.

Few of those safeguards exist with private adoptions, although advocates say that the vast majority of private adoptions work out well. In these cases, a couple usually finds a birth mother through advertising or word-of-mouth, hires an attorney, pays for the woman's medical care and delivery, and then takes the infant into their home before any court is notified.

Only if a New York State couple seeks to adopt a baby from other states that have an agreement with New York is a home study done before the child is placed with the couple. If the baby is born in New York State, a couple can take the child home before applying for adoption and undergoing a home study.

In response to the Steinberg case, some judges are beginning to ask for pre-placement home studies in all private adoption cases, even when the child is born here.

Nassau County Surrogate Court Judge Raymond Radigan, who handles up to 700 adoptions a year, is one. He also requires the birth mother to have her own counsel, and be offered counseling. Many judges do not.

Virtually all judges handling adoptions now do demand to see and question the birth mother some time after she signs the consent form giving up rights to her child. That consent becomes irrevocable 45 days after signing or after the woman appears in court. The increased scrutiny aimed at adoptions after the Steinberg case has sometimes meant long delays in adoptions, said attorney Magovern.

"They may say it's not Steinberg, but it is," he said.

Said adoption attorney Michael Goldstein of Westchester County, "The reforms have been forthcoming slowly and piecemeal, with the changes sometimes unfortunately coming unannounced . . . so it's chaotic trying to advise adoptive parents and birth parents on the present state of the law."

State law already limits the fees adoptive parents can pay to attorneys and birth mothers to "necessary expenses," but each court can interpret that differently, further increasing the confusion, Goldstein said.

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In the wake of the Steinberg case, Radigan would like to see more uniform rules and regulations in adoption courts throughout the states. The surrogate judge association has called for some rule changes.

Although many judges support prior home studies and independent counsel for the birth mothers in private adoptions, Radigan added, they express concern over the cost to adoptive parents in less affluent areas.

Generally, adoptive parents pay for the home studies, which can cost up to \$500.

"If there's a uniform rule, I personally believe a lot of this would require legislation," he said. "You'll need funding and to get funding you need legislation to get the county or state to pick up the tab."

State legislators agree that more reform is necessary but, also like Radigan, caution that laws should be reasonable.

"I believe in private placement adoptions. It encourages adoption," said State Sen. Dean Skelos (R-Rockville Centre), who co-sponsored the Lisa Law. "We try to strike a balance between protecting the rights of those who wish to seek adoption privately and the rights of the child."

The Lisa Law is one step: It gives adoptive parents some rights to the child pending formal adoption (which takes at least six months after parents take custody) and it hastens court review, although reports from the state's child abuse registry routinely take anywhere from 45 days to four months, lawyers and judges say. Legislators voted down a bill making it a misdemeanor for attorneys to fail to file with the courts on time, although such faulty adoption petitions might not be approved.

Stopping a future Steinberg situation might depend more on the increasing sophistication of the public. Adoption court clerk Schmidt suggests that if a birth mother knew she had to appear before a judge as well as sign a consent form giving up rights to her child, she might grow suspicious if she isn't called into court. The birth mothers in the Steinberg case might have asked, "What is taking so long?" Schmidt said. "Very few people are aware of the statute."

The Steinberg case has in fact prompted more awareness. Westchester County attorney Goldstein said that in the wake of the Steinberg case, a number of birth mothers he represents are asking for home studies, by social workers, of the couple seeking to adopt their as-yet unborn child.

"They might not know the name Steinberg, but they'll maybe quote the case about 'the kidnaping in New York City where the attorney killed the baby,'" he said. "They've learned from the Steinberg case to ask for home studies."

Meanwhile, private adoptions are likely to flourish as long as agencies can't meet the demand and have a reputation for long delays.

Jane Edwards, director of Spence Chapin Services for Families and Children in New York City, an adoption agency now doing several hundred adoptions a year, said 1,825 couples came to general informational meetings in the year ending June 30. Of those, 417 couples asked to be considered in the agency's program; 91 couples were accepted for home study. In that year, drawing on already approved couples, she said, 304 placements were made, 204 of them with foreign-born infants.

She said she didn't want to see private adoptions banned, just given some of the same protections as an agency adoption. "We offer everything an attorney offers, and so much more," she said of her agency's

extensive services.

Michael Neff, a New York City attorney whose practice is largely agency adoptions, said most such adoptions, especially in the city, involve children who are minority, foster care, handicapped, hard to place or foreign-born. But, he said, agency adoptions tend to be more secure and reliable.

In private adoptions, he said, "there are more pitfalls . . . more anxieties, more complexities."

On the other hand, couples often successfully find a baby through private adoptions. Aaron Britvan, a Long Island adoption attorney, says that it's a myth that there are no babies available and that almost all couples who advertise and work hard at it will have a baby within 15 months and do it perfectly legally.

Not that agency adoptions are trouble-free in all cases. Many of the family and surrogate court judges now refuse to approve adoptions from several out-of-state adoption agencies - including the Georgia-based agency Friends of Children, which charges up to \$18,000 in fees apart from medical and legal expenses - because they refuse to explain their high fees.

This month, Manhattan Surrogate Court Judge Marie Lambert went further and ordered two out-of-state agencies to return the fees to the adoptive couples.

The Adoptive Parents Committee of New York is holding a conference on Nov. 20 at Manhattan College in Riverdale, where a phalanx of legal, social service and child development professionals will meet with current and prospective adoptive parents to give out as much information as possible on current law and rules.

Lester Steinberg, no relation to Joel Steinberg and current co-president with his wife, Ronnie, of the parents committee's Long Island chapter, said that adoptive parents favor safeguards "because it affirms that their adoptions were done properly and they don't have to have the feeling that was generated by the {Joel} Steinberg case that private placement adoptions were tainted."

He added, "Even at that time they weren't. The Steinberg case was absolutely an aberration. It was . . . {an alleged} child abuse case by an attorney who misused the system." A Look at the Lisa Law Effective Oct. 1, 1988, the state's Domestic Relations Law dealing with private adoptions was revised by what family law practitioners dubbed the Lisa Law.

In essence, the revision says that all parents who want to adopt a child must file, within 10 court days of taking physical custody of a child, a petition for adoption or an application for temporary guardianship.

The application must include proof of the consent to adopt the infant and a statement that the infant will live with the parents and that the parents intend to file a petition for adoption within 45 days of the execution of the consent to adopt.

The law also requires the courts to quickly find out whether the interests of the infant will be protected by the prospective parents pending the adoption. This will be done, according to the law, by checking the Statewide Central Register of Child Abuse and Maltreatment for information about the adoptive parents.

If, within a certain time limit, the court denies the application for temporary guardianship or removes the child from the guardian's home, the natural parents who consented to the adoption must be promptly informed. In addition, the court shall order a child protective service worker to conduct an investigation into the condition of the infant and notify the local district attorney if a crime is believed to have been committed.

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