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## Illinois may end 'planned abandonment'

Parents forced to trade custody for care of adopted children

By Patrick Yeagle



Toni Hoy speaks to lawmakers during a legislative hearing on a bill to end "planned abandonment" of adopted children who need intensive care for emotional disturbances.

Photo BY PATRICK YEAGLE

When Dan Hoy was just six months old, he was taken from his biological parents by the state. He was lethargic and starving to death, and he had to be fed with an eye dropper each hour to keep him alive.

Then, at the age of two, Dan was adopted by Toni and Jim Hoy of Ingleside, which is north of Chicago. For Dan, it was a blessing or a stroke of luck because he would soon need his new family's tenacity in the fight to keep him from becoming lost in the mental health system as a ward of the state.

Now 19, Dan spoke last week to lawmakers at a legislative hearing in Springfield, asking for the passage of a bill that would have prevented much of his family's battle.

Dan's neglect as a baby impaired his brain's ability to regulate emotions, he told lawmakers. As a result, he became violent and uncontrollable around age 10. By age 12, he had been placed in a psychiatric hospital 11 times. The Hoys couldn't afford the expensive care Dan needed at a residential facility, but the state wouldn't pay for it unless the Hoys relinquished their custody of Dan in what's known as a "planned abandonment" or a "lockout." It was then that the Illinois Department of Children and Family Services issued the Hoys an ultimatum.

"They said if we brought him home from the hospital, they were going to charge us with child endangerment for failure to protect our other children," she said. "If we left him at the hospital, they were going to charge us with neglect. The hospital social worker cried, along with our entire family, as we drew the line at safety and made the unbearable decision to leave him at the hospital with strangers."

The Hoys gave up custody of Dan in 2008 and would spend the next three years fighting DCFS in court to get him back.

"I could see the stress and pressure that was put on my parents, especially my mom," Dan told lawmakers in the March 26 hearing. "That hurt me a lot, and I feel a lot of guilt that my parents suffered so much to help me get treatment. I love my parents and I should not have lost them for any amount of time for a chance at getting better. ... I need all the services that I'm getting and I still need my parents too. Without either one of them, I would be on the streets or in jail. I don't want any other kids to go through what I and my family did."

The Hoys' story is not an isolated case. More than 600 families in Illinois have relinquished custody of their adopted children over the past 10 years in order to obtain treatment for their children's mental disturbances. At least eight lawsuits have been filed against the state, arguing that adopted children are entitled to such care through Medicaid under federal law. And while some of those lawsuits

have successfully gained care for children, the situation that leads to the cases in the first place remains.

Rep. Sara Feigenholtz, D-Chicago, sponsors House Bill 5598, which would prohibit the Department of Children and Family Services from making custody relinquishment a condition of paying for residential care, among other provisions. Feigenholtz was adopted as a child herself and has made adoption reform a central part of her legislative career.

The bill received support from 115 individuals and groups, and several families showed up to submit testimony about their experiences with planned abandonment. Two state agencies – the Illinois Department of Human Services and the Illinois Department of Children and Family Services – oppose the bill.

Meryl Paniak, chief counsel of DCFS' legislative affairs office, says the bill would essentially make her agency responsible for mental health services for children, which may cost the state millions of dollars. Paniak says another agency – the Illinois Department of Human Services – is better equipped to handle that task, and DCFS wants an interagency agreement in place to direct families to the appropriate agency.

"We agree wholeheartedly with the premise of legislation that parents should not have to relinquish custody to get mental health treatment despite the absence of abuse and neglect," she said. "We also support the need for an interagency agreement between the departments and divisions... I think where we disagree is placing the burden on the Department of Children and Family Services."

Debra Ferguson, senior deputy and chief of clinical operations for the Department of Human Services' division of mental health, says her agency also supports the goal of Feigenholtz' bill, but Ferguson says residential treatment often isn't the answer. The bill does not require residential treatment, but it would make such treatment easier for parents to obtain for their adopted children.

"Current best practice holds that the best outcomes are achieved with children, youth and caregivers when their needs are matched with appropriate individualized services," Ferguson said. "Out-of-home residential treatment is not clinically indicated for the vast majority of children with serious emotional disturbances, and in fact has been demonstrated to be effective for only a small minority of children and youth."

Feigenholtz said she would work with both departments to find a compromise.

“This is very much the beginning of an effort to make a moral statement from the State of Illinois that we are not about forcing families to give up their children, that we are going to work toward a better path for those families and a better path for those children,” she said.

The bill was approved by the House Adoption Reform Committee unanimously and awaits a vote before the full House.

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