

January 14, 2014

My name is Steven M. Kirsh. My practice of law is limited to the handling of adoption cases. I have over 30 years of experience in this area of the law. I practice throughout the State of Indiana with my brother, Joel D. Kirsh. I am a past president to the American Academy of Adoption Attorneys, which is national association of over 300 attorneys with special expertise in adoption law. I have been involved in over 3,000 successful adoptions. I have been called as an expert witness on several occasions by the Indiana General Assembly to testify on adoption matters. I had hoped to have personally appeared at this hearing but have a doctor's appointment that kept me from attending.

I proposed the idea of a pre-birth notice statute to the Indiana General Assembly almost twenty years ago. Indiana has had a pre-birth notice statute since that time. A number of states have enacted similar laws. I am glad to see that Ohio is considering a pre-birth notice statute as part of HB 307.

In my view, a pre-birth notice statute enables all parties to an adoption to know where they stand prior to the birth of the child. If notice is given to the alleged father and he does not comply with the statute, the prospective adoptive parents and birth mother can proceed with the adoption without fear of a challenge later on. Under current Ohio Law, notice of an adoption cannot be given to the father of the child until after the child is born. Since the prospective adoptive parents assume custody of the baby within days of birth, they are at risk of losing the child if the father successfully challenges. Likewise, a birth mother, who is already facing the most difficult decision of her life, has to factor into that decision the likelihood that the father might contest the adoption. Without a pre-birth notice statute, neither the prospective adoptive parents nor expectant mother have a way of gauging the sincerity of a putative father who says that he is going to contest the adoption. By having the capability of giving him notice of the adoption prior to the birth, everyone, including him, know where they stand before the child is born, thus substantially reducing the possibility that the lives of the prospective adoptive parents, birth mother and father, and child will be disrupted.

Frankly, in this legislation, Ohio is setting the bar fairly low for a putative father to protect his rights. Under Indiana law, he has to actually file a paternity action and ask the court to make him legally and financially responsible for the child for the next twenty-one years in order to preserve his parental rights. Under House Bill 307, all he needs to do is register with the Ohio Putative Father Registry. In essence what HB 307 is asking of him to take a tiny step to express a desire to be involved in the adoption process, without any legal, financial, or emotional commitment. If a man is not willing to take the small step of registering, especially after he has received "actual" notice, as your bill requires, he should not be allowed to prevent the adoption of the child.

In my mind, it would be hard for a putative father to argue that it was unfair, or an imposition on him, after receiving "actual" notice of an adoption, to register with the Ohio Putative Father Registry, whether the man lives in Ohio or another state.

I strongly support the concept of the pre-birth notice provision as contained in House Bill 307. Feel free to contact me with additional questions or concerns.

Respectfully submitted,
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