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TESTIMONY OF TARA E. GUTTERMAN, ESQUIRE
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Good Morning, Mr. Chairman, and House Committee Members. My name is Tara Gutterman and I am an attorney and Executive Director of Adoption Resource Center, a Pennsylvania and New Jersey licensed nonprofit adoption agency. I am honored to have this opportunity to come before you today to speak about the Proposed Adoption Reform Legislation. I have been a practicing attorney for nine years and involved in adoption issues for eight of those nine years. For the past six years, I have acted as founder and Executive Director of ARC. We have placed close to three hundred children into safe, permanent homes. We have also worked with close to one thousand birth families in the area. Most of the children that we place are considered special needs children. Special needs children are those children who are defined by federal and state statute as "difficult to place". In a very general definition, special needs children can be defined as children who are born or who develop a handicapping condition, or they may be children who are simply healthy members of a minority group. In any event, we believe all children have the right to a stable, safe, permanent home.

First, let me start out by saying that I commend this Honorable Committee for recognizing the timeliness and importance of these new proposed bills. These new laws will effect all parties involved in an adoption. As an adoption professional, I am blessed to see all sides to the adoption triangle. I am lucky to meet the birth parents who put their own interests aside to make the best plan for their children. Most of these families are hard-working, caring individuals who can not be parents to their infants at this time in their lives when they may be struggling financially, emotionally, or both, I have held back my own tears on many occasions as I watched a heartbroken birth mother kissing her infant goodbye for the last time.

On the other side, I have also had the joy of watching people become parents for the first time- a dream that they never thought would come true. Yet, even when their dreams do come true, they still can not relax for 4-6 months during the legal risk period of time in which the birth parents can change their mind according to Pennsylvania law. At each and every placement an adoptive parent takes a leap of faith that this child that they hold will be theirs forever. At each and every placement they ask me to take off my lawyer's cap and tell them that I KNOW that the birth parent will not change their mind about the adoption and that this baby will be theirs forever. Unfortunately, I can not give them that kind of comfort. I have always told my adoptive parents that so much of what happens is out of our control due to Pennsylvania's long legal risk adoption period. I can never describe to you the pain that I have seen when I have had to ask adoptive parents to return a baby to the agency because a birth parent had revoked his or her consent.

Therefore, I feel that the proposed thirty day revocation period is a vast improvement over the current law. I am unsure from my reading of the statute, whether or not the proposed statute will make this period automatic or whether it will be necessary to have a Court hearing to terminate the rights. I wish to address the issue under the assumption that the consent is binding after thirty days and that there is no need for a hearing.

In the event that this will be an automatic termination at the end of thirty days, I have a few suggestions. In many of my suggestions, I will compare and contrast New Jersey statute since it is right over the bridge and because Adoption Resource Center is licensed there as well.

One of my suggestions deals with the actual signing of the "consent". Currently, and even under the proposed law, **anyone may** take a consent and **anyone may** witness this legal document. Also, you need not produce any identification to sign this legal document or consent. It is my suggestions that, Pennsylvania implement the requirement that this consent be taken in front of the Pennsylvania notary. My rationale for this is two-fold. First of all, a notary will ascertain the identity of the person signing the consent. Secondly, if at a later date, a birth parent challenges the validity of the consent, the notary can act as an independent witness to the parent's affect at the time of the consent's execution. I feel that if we are going to automatically have someone's rights terminated after thirty days based upon one document, this document should be as official as possible. As a point of comparison, NJ law requires that the surrender which is taken as early as 72 hours after birth must be executed in front of a NJ state

notary. This surrender in the state of New Jersey is final, irrevocable, and binding. In essence, it terminates the birthparents' rights.

Getting back to the proposed Pennsylvania statute, since this document is going to be binding after thirty days, I would respectfully suggest that the statute mandate who may take this surrender. For example, must a licensed agency be present when the consent is signed, or a social worker with a Master's in Social Work, or an attorney. I feel that the birth parent should have certain safeguards to protect their rights when they sign a final document. If we take a quick drive to New Jersey, their law states that the final surrender which is the equivalent of the consent to adoption, must be signed in front of an licensed agency representative or else it is not binding. While this is a lot of responsibility to give to an agency, they leave it to their Department of Welfare to regulate these agencies strictly to ensure that proper staff and procedures are practiced. It is in this way that they protect the rights of the birth and adoptive families. Clearly, I am an advocate of this procedure and feel that our families in Pennsylvania would benefit from such a statute.

As an agency that specializes in birth parent counseling, I was thrilled to see its proposed statutory inclusion in the petition for voluntary and confirm consent petitions. All too often, we have had birth families tell us that when they did a private adoption, they were never given any options for their unplanned pregnancy other than adoption. Moreover, they tell us that no one ever explained the Pennsylvania law to them or their right to revocation.

One young lady that comes to mind is named "Melody". She was working with an adoption facilitator. An adoption facilitator, as you may know, is not necessarily, an attorney or social worker, but someone who can still make adoption matches in our state. Melody received money from this woman for living expenses throughout her pregnancy, which is illegal in our state. After she had the baby, she was matched with a family that she did not feel was stable enough (They had each been through two divorces and the wife had not completed high school). Melody expressed her discomfort to the facilitator who turned a deaf ear and went forward with the placement. When Melody changed her mind, one day after the placement and before the consent to the adoption was signed, the facilitator told her that she could not have her baby returned to her and that she would have to pay back all of the money. Melody knew enough to call a licensed agency and after ARC instructed her as to her rights, Melody called the facilitator and demanded return of the child. The child was returned to her. At this point, Melody was distraught because although she still felt that adoption was the best plan for her child, she needed counseling and she wanted to select a good family

for her child. Melody needed to feel good about where her daughter was going in order to assist her through the grief and loss period which she surely would have experienced.

Because Melody still wished to place the child for adoption, Adoption ARC provided counseling to her over the next several weeks and on-going grief and loss counseling after the placement. Melody was given several profiles of different families which showed their photos, the house, and a letter they wrote about why they wanted to become parents through adoption. After several days of looking through profiles, Melody finally selected a young, childless couple who had been married several years. They were educated and intended to provide the same for their new baby. When Melody put down their profile, she smiled and cried. "These are the ones." She now had a sense of peace. Melody had the opportunity to meet the couple and they still send photos and letters back and forth even three years later. Had it not been for the counseling that Melody received and the ability for her to make her own plan, this birth mother would never have felt good about the difficult decision that she made. I have seen that the counseling component is crucial to the success of the entire process. I commend the Committee on realizing its value.

Unfortunately, some clients do not want to deal with their pain at the time of the adoption, and will refuse all counseling efforts. They close up so that they do not feel the pain, and they can get "through the process". It is for this reason that I feel it is important for the counseling statute to implement a waiver document which all agencies can have the birth parent sign stating that they have been offered counseling but that they refuse it.

As I stated before, licensed agencies usually only do placements with one in four or one in three of the birth parents whom they counsel prior to delivery. As such, we are fortunate to help most of our birth families stay together by connecting them up with services. One of our case workers, Lisa, had a birth mother named, Kelly. She had a six year old severely retarded son and an older step son. She was a single mother and had placed a child for adoption through our agency two years prior to this pregnancy. When Lisa met with Kelly for the first time, she was unemployed, had not gone to a prenatal visit, did not have any services for her son, and was behind with her bill payments. Over the next three months, Lisa met with Kelly on a weekly basis. She aided her with a medical assistance application, accompanied her to prenatal appointments, assisted her in making a household budget, and helped her son reconnected with Ken Crest who has programs for special needs children. When Kelly delivered her baby girl, she decided that she did have the skills and means to be a

good parent to her, thanks to Lisa's intervention. Kelly still keeps the agency abreast on how she is doing and sent us a wonderful note of thanks. These counseling programs by our nonprofit agency, Adoption Resource Center, is unfunded at this time and free of charge to all birth families. In the future, it is our hope to partner with the state to receive funding for our counseling services and to keep them available forever.

I would like to express my enthusiasm at the proposed law for terminating the rights of the putative fathers. I feel that in order to be a parent, you must act like a parent, and this statute makes it clear as to how a birth father must assert his rights. It is not enough to simply object to an adoption. You must now file a claim to paternity, contribute financial support, and make a plan for your child.

I know that all too often we have had young birth mothers forced into parenting a child because the father objected to the adoption plan, only to find out months later that this father never contributed a dime to the care of his baby. I feel that this statute will alleviate these problems and ultimately assist in better care of the children either through adoption or through making the father more responsible.

What do we do with putative birth fathers when we don't have an address? In Pennsylvania, each Court has its own mandate as to what constitutes an acceptable search. I respectfully suggest that it is time for a Pennsylvania statute to mandate what comprises an appropriate search since the time frame for revocation is being shortened. It is my experience as an agency director that over fifty percent of the time, the birth mother will not have an address for the putative father. As such, the search for the birth father is a vitally important step in the adoption process. If we denote, by statute, what has to be done, then there is no question. I would suggest that the statute require a letter to last known address, Department of Public Welfare, Department of Voter Registration, Department of Motor Vehicle, and Department of Corrections. If no response is received by the agency within an allotted amount of time, then it should be deemed as a negative response.

Lastly, I wanted to get back to the children whom I represent the most-special needs children. Over the past four years, I have been litigating for adoption subsidy for special needs children placed through private agencies in our state. Adoption Subsidy is on-going medical and financial assistance funded through the federal government funneled through the states to promote the adoption of special needs children. In order to be

deemed "eligible" for subsidy the public county agency where the child lives, must deem him or her as such. Yet, Pennsylvania continues to vary county to county as to whether they will deem special needs children placed through private agencies as eligible. For example, a few years ago ARC placed Kevin, child with Down's Syndrome for adoption. Kevin was from Luzerne County, my home county. When I requested subsidy on behalf of the adoptive family, the County agreed immediately and sent me the contract. In contrast, Adoption ARC placed child born with sickle cell disease in Philadelphia and had to fight four years through endless briefs and court orders to finally have the contract initiated with back-pay. As such, I would propose a statute which grants subsidy automatically to children who meet the medical criteria as special needs children and are placed through approved Pennsylvania agencies. The bureaucracy is too tangled and too expensive for most adoptive families to fight so they give up and the children go without their benefits. That is truly not what the federal law intended. The legislators fought for families in passing the federal laws. Now we need your help and tenacity to make sure that the law is being followed to the letter and applied fairly to everyone.

I really feel that with these new proposed reforms you have shown that adoption issues are important to you and to our families. We really appreciate that!

Thank you for your time, and thank you for forging ahead to make necessary change.