

## **Comprehensive Policy and Advocacy Action Plan**

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## **The Policy Issue**

### **Problem**

In the state of Tennessee, foster children that are adopted have no protection from being adopted by parents that perpetually return or abandon children and the compounded trauma that situation causes for them. Abandonment of adopted children refers to the returning of adopted children to the foster system, or the dismissal of the child from the home with no contact or interest in what becomes of them. Often when adoptive parents are unable to care for adopted children's behaviors, they may try to allow the adopted children to live with family members or friends or even in some cases back to the biological family they were originally removed from. Additionally, there are no restrictions placed upon their ability to continue adopting and abandoning children (Child Welfare Information Gateway, 2020) The lack of tracking for unsubstantiated abandonment by certain adoptive parents causes a significant, additional trauma to foster children and reduces the effectiveness of Department of Child Services (DCS) workers, thus raising the costs associated with the care and homing of foster children. Additionally, it poses a financial drain on the system when automatic payments continue to be made and received by former adoptive parents even after dissolution [or abandonment] (Brown, et al., 2022, Sarkar, 2024).

### **Current Abandonment Legislation**

However, Tennessee currently does have legislation that was recently passed and outlines the definition of abandonment for children in foster care by their biological parents (TN Code 163, 2023), including the terms of parental termination. Those terms indicate that after a period of 3-4 months (depending on the age of the child), parental termination occurs due to a lack of support and visits (TN Code 163, 2023). The reduced time in foster care for children under 4

years of age from 4 months of no contact or support from parents before parental termination begins to 3 months before parental termination begins allows the youngest children less time in the foster system and a quicker transition to their forever families. However, adoptive dissolutions should be similarly recognized and addressed. Nationally, adoption dissolutions represent 1-5% of adoptions (Considering Adoption, 2024). Unfortunately, exact rates for foster care adoptions that are dissolved are difficult to obtain due to the lack of reporting requirement regarding dissolutions to a central registry (Kim, 2022).

### **Legislative Omission**

The original goal of the law was to establish when the termination of biological parental rights should occur as a result of a period of abandonment by parents, with the termination being final (TN Code 163, 2023). However, the law neglected to establish a consequence for the abandonment of children by adoptive parents and the additional trauma and financial impact to the state that results. Therefore, the definition of parental abandonment does not apply to adoptive parental abandonment and the consequences that follow leaving a vacuum in understanding and tracking adoptive parent abandons.

### **Legislative Omission Impacts**

As a result of this omission, the abandonment of adoptive children occurs without regard for the impacts. This issue impacts the foster children who are adopted, the state (DCS), and the community who are composed of neglected and abandoned children. An unintended consequence may be that there is a reduction in individuals willing to adopt foster children.

### **Prior and Future Legislative Support**

The bill, HB0163, was supported by Republicans in the state house and state senate offices, being sponsored by Republican Ed Butler in the State House and Republican Ferrell

Haile in the State Senate (Tennessee General Assembly, n.a.; Klingler, 2023). There was little opposition and strong support for bill HB0163, with the Senate Committee voting 25 ayes to 6 noes in support of their version of the bill. Their version of the bill would then conform to the house version of the bill: HB0163 (TN General Assembly: Votes, n.a). In the house, the final vote was 88 ayes to 11 noes (TN General Assembly: Votes, n.a.). Support will likely continue from Republican officials for the bill that we will be put forward to address the abandonment of foster children by adoptive parents.

### **Existing Legislation Related to Abandonment and Adoption**

Tennessee Code Annotated, Title 36, Chapter 1 Section 102 defines abandonment as a parent not attempting to contact, visit, or support a child over the age of four for at least four consecutive months. If the child is under four years old, abandonment includes the same definition but changes the criteria to three consecutive months (TCA § 36-1-102). This group is proposing an amendment to TCA 36-1-102 (1)(A) that would expand the definition of abandonment to include dissolution after finalization of adoptions in which it was not in the best interest of the child. Under current legislation, if the adoptive parents' efforts to reconcile with the child and provide suitable living for the child does not exceed the efforts of the department to reconcile the familial relationship, the parents will be found to have abandoned the child.

Second, the new bill being proposed would require that the Department of Children Services (DCS) would investigate adoptive parents seeking to dissolve their adoption to determine if the voluntary or involuntary surrender of the child met the standards for abandonment stated above. If the parents are found to have abandoned the child according to the definitions set forth in the expanded definition proposed for TCA 36-1-102, the Department of Children Services would

place a sanction on the family restricting their eligibility to adopt children within state custody going forward.

### **Current Implementation**

Tennessee law TCA 36-1-102 is currently enacted and falls under the jurisdiction of the Department of Children's Services (DCS). The law is enforced by DCS who receives state funding to support child welfare services. At present, there is no literature regarding laws restricting adoptions for former adoptive parents. According to a former Child Protective Services (CPS) worker and committee member, there are not currently any Tennessee laws that would restrict a person's ability to adopt after abandoning a child (L. Harris-Hammond, personal communication, September 11, 2024). Also, an adoption or child welfare agency may choose to blacklist a person and refuse to write a reference for future adoptions. They may pursue adoptions through a different agency if desired (L. Harris-Hammond, personal communication, September 11, 2024). This proposed bill to expand the definition of abandonment and restrict future adoptions could be sponsored by Senator Adam Lowe.

This new bill would expand the definition of abandonment to include abandoning adopted children to state custody after adoption has been legalized. The parents would be considered to have abandoned the child only in cases where the child was not in danger and the child was not endangering the family. Abandonment will also include instances in which parents rehome a child to another family without going through the court system. This legislation will require the Department of Children's Services to track and report all adoption dissolutions in the state. DCS will be required to track and report if a child entering state custody was formerly adopted out of foster care. DCS will also be required to check with adoptive children annually to ensure that the children are still in the custody of their adoptive parents. If adoptive parents are

found to have abandoned their child, this legislation will allow DCS to restrict them from adopting in the future.

### **Importance of Policy**

According to a report from the U.S. Department of Health and Human Services, 53,665 children were adopted in the United States in 2022 (FY2022 No. 30, 2022). The Child Welfare Information Gateway estimates that roughly 10-25% of adoptions from foster care are disrupted, and about 1-5% are dissolved (Child Information Gateway, 2020). This means that of the 53,665 children adopted in 2022, roughly 5,367- 13,416 and 537-2,683 of the adoptions were disrupted and dissolved, respectively.

There is no research on the direct impact of adoption disruption or dissolution on the child's well-being. Links between a child experiencing a dissolution of adoption and their educational, emotional, and interpersonal outcomes have not been studied. This is due, in part, to the lack of statistics of adoption dissolutions in Tennessee as a whole. On a psychological level, a child who has experienced abandonment from their primary caregiver is placed at high risk for substance abuse, post-traumatic stress disorder, suicide risk, violent behavior, and developmental delays (Vanderminden et al., 2019). Further consequences may include shame, humiliation, worthlessness, helplessness, hopelessness, and feeling inadequate or defective. It can also lead to narcissism, or other severe pathology in the child (Marici et al., 2023). Parental rejection can be a deeply traumatic experience and create long-lasting emotional scars that will affect the child's relationships in the future (Marici et al., 2023).

Because adoption dissolution causes long-lasting trauma in children that significantly affects their development, the issue of dissolution should be specifically addressed in this bill, and families should be educated and well prepared before becoming parents to a child,

understanding all the implications of their responsibility to the child. By introducing a bill that expands the definition of abandonment and restricting parents who have previously dissolved their guardianship over a child, another layer of protection will be added to preserving adoption placements and the well-being of the child.

### **Theoretical Framework**

We will be utilizing a rational framework for our policy campaign, specifically the Segal and Bruzuy's model for Social Welfare Policy Analysis. The rational framework for policy analysis emphasizes three key preconditions that are essential for effective policy implementation: first, there must be a consensus on what constitutes the public good; second, a systematic method must be established to analyze factors influencing quality of life; and third, there needs to be a solid understanding of societal dynamics to implement and evaluate proposed policies effectively (Montgomery, 1987). The Segal and Bruzuy's Questions for Social Welfare Policy Analysis will align well with this model's focus on implementation and impact (O'Connor & Netting, 2010). There are eight key questions to consider: what is the social problem, what is the policy goal, what is the relevant policy/legislation, how was the implementation, who are the affected populations, what is the intended impact, and What is the actual impact?.

#### **What is the social problem?**

The social problem is Tennessee foster children who are adopted have no protection from being adopted by parents that perpetually return or abandon children and the compounded trauma that situation causes for them.

#### **What is the policy goal?**

The policy goal will be to reduce adoption dissolutions and increase permanency and stability of adopted youth.

**What is the relevant policy/legislation?**

There is current policy/legislation on adoptions in reference to expediting them, however we are proposing an amendment to the current legislation in reference to adoption dissolutions.

**How was implementation?**

Implementation will be through a media campaign.

**Who are the affected populations?**

The affected populations would be Tennessee foster youth and current and prospective foster/adoptive parents.

**What is the intended impact?**

The intended impact is to reduce adoption dissolutions and increase permanency and stability of adopted youth.

**What is the actual impact?**

The actual impact is unknown at this time.

Our framework for modifying adoption and abandonment requirements requires a rational framework and it is our belief that Segal and Bruzuzi's model for Social Welfare Policy Analysis will guide our policy campaign. Moreover, when existing frameworks are inadequate, we should feel empowered to develop new analytical tools, enhancing our understanding of social and economic justice principles within social work (O'Connor & Netting, 2008). This can be applied to our current social policy on abandonment reformation as there is no current tracking method for adoption dissolutions.

Historically, social workers played a pivotal role in shaping public policy during the Progressive era, exemplified by the establishment of the Children's Bureau in 1912 and the Women's Bureau in 1920, demonstrating the significant impact of informed political action in



promoting the public good (Stuart, 1999). Our goal is to apply this framework as it has been historically successful when advocating for change in social welfare regarding children.

### **History and Background of Child Welfare Laws and TCA 36-1-102**

The development of child welfare laws in Tennessee, including TCA 36-1-102, was influenced by historical events, societal shifts, and evolving federal legislation, reflecting a complex combination of legal, social, and political factors. Federal laws mandated that states institute their own welfare systems. Tennessee simultaneously formed its own welfare legislation that worked alongside federal requirement. Tennessee presently has limited legislation about adoption related abandonments.

### **Early Establishment of Child Welfare Services in Tennessee**

In Tennessee during the early twentieth century, new laws were also formed to formalize child welfare services in response to an increased awareness of child neglect and corruption within the adoption process. Georgia Tann of Memphis, TN, ran an orphanage called the Tennessee Children's Homes Society from the 1920s to 1950s. She ran a black-market adoption business where she took advantage of impoverished families, stealing their children and selling them to wealthy families across the country (Noll-Wilensky, n.d.). When her dealing were exposed in the media, the state recognized the need to change existing adoption laws (Noll-Wilensky, n.d., Merlin, 1950).

Tennessee passed an act to regulate adoptions on April 6, 1949 (Merlin, 1950), supported by Governor Gordon Browning (Noll-Wilensky, n.d.). This law laid out the initial understanding of welfare and child safety. It prohibited individuals from adopting who were not financially capable of supporting children. The three objectives of the law were to protect children from being taken from their parents wrongly, prevent biological parents from interfering after

adoption, protect biological parents from rashly releasing their child, and protect adoptive parents from taking in an unfit child (Merlin, 1950). This law laid out the initial understanding of welfare and child safety. It prohibited individuals from adopting who were not financially capable of supporting children (Merlin, 1950). Tennessee state laws regarding adoption and foster care evolved as federal legislation passed regulating child welfare practices across the country (National Council For Adoption, 2023).

### **Federal Adoption and Foster Care Legislation**

In the early 20th Century, the United States recognized a need for a child welfare system to protect vulnerable children. In 1912, President Taft signed Public Law 62-116, which formed the Children's Bureau which intended to protect needy children by forming a child welfare system. This was the first federal child welfare legislation and set the groundwork for future laws (National Council For Adoption, 2023).

In 1974, The 93rd Congress introduced a bill to establish a National Center on Child Abuse and Neglect, resulting in the Child Abuse Prevention and Treatment Act (CAPTA). The act centralized child welfare efforts and gave the federal government the responsibility of gathering data regarding child abuse and neglect (Public Law 93-247, 1974). It also allocated funds to government and nonprofit agencies within each state to investigate and address child welfare issues. The act has been amended many times and technically expired in 2015, but the government has continued to fund the act since its expiration (Child Abuse Prevention and Treatment Act, 2022).

In 1980, the Adoption Assistance and Welfare Act passed to relieve concerns about children lingering in the foster system and being removed by untrained agency members. The goal of this act was to create permanency for children after reunification was found to be

unachievable (National Council For Adoption, 2023). This legislation encouraged adoption, increasing funding for social services and providing states with federal funds to support foster care and adoption programs. This program focused on providing groundwork for creating more stable and supportive environments for children in foster care through child support enforcement and family-centered support services (Public Law 96-272, 1980).

In 1997, the Clintons sponsored the Adoption and Safe Families Act, which sought to establish permanent placement of children in foster care. This was accomplished through prioritizing child safety over family reunification when necessary. States were offered financial grants to increase adoption rates, especially for children with special needs. This act also required states to provide health insurance for special needs children (Public Law 105-89, 1997, National Council For Adoption, 2023). The act required states to report the state's termination of parental rights (TPR) rates and practices. Annual reports reveal that only seven out of all fifty states have adequate TPR practices (National Council For Adoption, 2023). The act created an ethical dilemma in which adoptions were financially incentivized creating a bias against biological families (Hollingsworth, 2000).

### **Adoption Corruption and Dissolution Issues**

The federal government administers adoption incentives formed by the Adoption and Safe Families Act. These subsidies are terminated by a state even though the state oversees local child welfare (Family Rising, 2024). Adoptive parents continue to receive adoption subsidies continuously unless the parents go to court and a change is filed. States are unable to stop adoption payments even if the child is returned to foster care. Therefore, adoptive parents are not penalized for dissolving adoption and may continue to receive government subsidies even if they are no longer parenting their adoptive child (Family Rising, 2024). Only international rates of

adoption dissolution are tracked by the state. Therefore, children who were adopted domestically do not count in the state dissolution rates. The Department of Children's Services annual report stated that less than two percent of adoptions dissolved, but these are only numbers reported by one agency, Harmony, and do not include children adopted from state agencies or other private providers (Tennessee Department of Children's Services, 2022). Family Rising estimates that three to ten percent of adoptions end in dissolution (Family Rising, 2024). If adoptions are being dissolved at the estimated rate, adoptive parents may continue to receive federal subsidies while their child is being cared for by the state. As 1,151 children were adopted in 2022 in Tennessee (ACF, n.d.), this could mean an estimated thirty-four to 115 households could be receiving subsidies for children that they returned to the foster care system.

### **Public Concern**

Adoption dissolution attracted media attention in 2017 when a famous couple on YouTube rehomed their adopted child (When Adoptions Fail, 2024). Many individuals were outraged by the couple's choice to surrender custody of their special needs child to another family. Some states prohibit unregulated custody transfers or rehoming of children while others do not have specific legislation. Chuck Johnson of the National Council for Adoption is spearheading efforts to write a new bill making unregulated custody transfers illegal across the country. The public concern about adoptive children's safety has spurred further public support for tracking and preventing dissolutions (When Adoptions Fail, 2024).

### **Previous Attempts to Address the Issue**

No previous bills have been introduced in Tennessee to address adoptive abandonment and tracking policies. Although our specific approach to address the abuse of adoption dissolution has not been previously discussed,

Tennessee has taken a different approach by focusing on post-adoption follow-up. The law requires adoptive parents to verify that their child is either enrolled in school or has been seen by a medical or mental health professional. If this verification is not provided, DCS is required to perform a home visit (Lunsford, 2022; Tennessee General Assembly, 2021). This bill, SB0270, was passed with no opposition, and signed into law on April 20, 2021 (Tennessee General Assembly, n.d.).

Nationally, there have been multiple attempts to address this issue from different perspectives. Most notably, many discussions have focused on preventing Unregulated Custody Transfer (UCT). UCT refers to the abandonment of a child by placing them with an individual who is not their parent, legal guardian, or approved relative, without ensuring the child's safety through home studies or background checks (Child Welfare Information Gateway, 2022).

On the federal level, efforts have been made to amend the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 to include UCT within its scope. This amendment requires the Secretary of Health and Human Services to provide a detailed report to Congress about UCT, along with recommendations for preventing it (H.R. 485, 2021). However, while these amendments lay the groundwork, some advocates believe more direct federal action is needed to standardize regulations across states. What sorts of arguments /reasons were made in support of and against such legislation?

Washington State became the first to officially legislate against UCT with RCW 26.38 (Washington State Legislature, 2022). This law makes it a gross misdemeanor for parents to transfer custody of a child without going through the appropriate legal channels, such as a court or child welfare agency (Washington State Legislature, 2022). The law also holds individuals

who receive the child or act as intermediaries responsible unless they notify authorities immediately. Importantly, the law also bans advertising the rehoming of children without proper authorization, and violators are subject to penalties under Washington’s consumer protection laws (Washington State Legislature, 2022). The bill responsible for this law was passed by the Senate on January 26, 2022 with no opposition. It then was passed by the House on March 4, 2022 with 95 “Yeas” and 1 “Nay” (5165-S.SL.pdf., 2022). We were unable to determine the reason behind the opposition vote.

New York State passed legislation requiring adoptive parents to verify that their children remain in their care. This law was primarily motivated by fiscal concerns after an audit revealed \$200 million in inappropriate payments to parents for children who had either returned to foster care or died (Sarkar, 2024). The bill was passed on May 30, 2024 with a vote of 53 “Yeas” to 4 “Nays” (NY State Assembly Bill 2023-A3580A, n.d.). The reason for opposition was not recorded.

### **Impacts of Current Policy**

Existing policy pertaining to adoption dissolutions of foster children are largely nonexistent aside from the minimal tracking done for international adoptions, and data related to the dissolutions of foster children from adoptive families is similarly lacking. The issue is not recognized at a national level, but a few states have begun to take up the issue and seek to curb the trend in their jurisdictions.

### **Individual State Policies**

#### ***New York***

The state of New York has put forward a bill to discourage the abandonment of adopted foster children by ensuring that state funding follows the child (Sarkar, 2024). The bill’s

sponsors suggest that, due to the slow response time from the state, payments to adoptive parents continue long after they have been “returned”, “rehomed”, or completely abandoned (Sarkar, 2024). To counter the undue benefits afforded to abandoning adoptive parents, the state will require proof that the adopted children are still in the care of adoptive parents and that they are financially supporting the children before payments from the state are sent (Sarkar, 2024). The benefit to the children is without question, but the benefit to the state is estimated to result in a \$200 million per year savings (Sarkar, 2024), meaning that that money was being given to parents who abandoned their children and no longer deserve that money. While the cost to find new adoptive parents for children is not available, the cost to keep children in foster care costs the public much more than simply adopting the child out (Zill and Bramlett, 2014), so efforts will likely continue to place as many children in adoptive care as possible. It is not clear whether New York's bill will propose tracking adoptive parent abandons and whether parents who abandon children will be limited in their continued adoption of children as a result of a given number of abandons.

### ***Colorado***

In contrast, the state of Colorado is combatting adoptive dissolutions of foster children by requiring that adopted children stay with the adoptive parents for a minimum of 6 months before a dissolution is considered (Brown, et al., 2022). The obvious impact is that Colorado is looking for committed parents who are not likely to dissolve, which will impact children by providing a more stable environment. Additionally, prior to the adoption of foster children, adoptive parents in Colorado must pass a thorough review of the family’s marital status, discipline methods, and receive trauma-informed training (Brown, et al., 2022). While they may not be addressing the financial payments to adoptive parents who have given their children new homes, they are

tracking what they term “broken” adoptions (abandons) and offer a number of services that adoptive families would benefit from on a specially-created website that conveniently lists the services that would be most beneficial to families in one place (Brown, et al., 2022). The service provision provided by the state benefits both adoptive families and the adoptees alike, in helping to provide resources that will help alleviate many of the stressors involved in adopting foster children, thus promoting less dissolutions. Recognizing that a major problem for adoptive families is the behavioral problems their children exhibit, Colorado has contracted with a program called “Raise the Future” in order to serve severe behavioral problems in children (Brown, et al., 2022). Here, then, is another service provision that will also impact adoptees and adoptive parents in experiencing less need to dissolve adoptions that they entered into in good faith.

## **Impacts of No Policy**

### ***Mental Health Effects and Poor Rehoming Practices***

Another impact of the lack of policy regarding limiting the adoptive rights of those who frequently dissolve their adoptions is that dissolutions will continue to occur without restraint with mental health effects for children. According to Mayra Mendez, a licensed psychotherapist in Santa Monica, CA, the effects of adoption dissolution include the increased risk of attachment disorders among foster children with adult caregivers and higher rates of depression and other mental illnesses for children, making them difficult to find housing for (Morson, 2018). This is due to the lengthened time outside of a stable home environment. It also leads to creative rehoming attempts by adoptive parents, leaving children vulnerable and causing safety and privacy concerns (Morson, 2018). When private rehoming operations like the Second Chance Program provide linkages to potential new families for abandoned foster child adoptees, the



concern remains that these programs have no oversight or accountability to the state (Morson, 2018). With a lack of policy to protect children, we can infer that these are the mental health effects we know will occur with repeat placements based upon the advice of mental health professionals.

### ***Swells in Abandonment and Need to Solve Problem Locally***

The lack of policy can also create great swells in dissolutions or abandons, as has occurred in Manatee County, FL. In that county alone, 12% of the state's dissolutions occur, though a tracking system for the parents involved is not in place (The Bradenton Herald, 2015). That county has proactively begun providing services to these children and recognizes that it is both harmful to children and cruel in its impact to abandon children, referring to it as Cruel Child Abandonment (The Bradenton Herald, 2015). In light of the concerns in that county and the lack of state support, they have begun their own individual preservation program for adoptive families of foster children by reconstituting a local YMCA-Safe Children Coalition to provide counseling and respite services (The Bradenton Herald, 2015). A lack of policy is thus suggesting that the problem will be either ignored or dealt with in piecemeal by individual communities doing the best they can to avert a problem they can clearly see exists. Again, lacking a policy that addresses frequent dissolutions, we note anecdotal evidence as to swells in dissolutions and that the solution lies in local communities solving the problem without the aid of state or federal support or guidance to prevent the occurrence from the beginning.

### ***Compounded Trauma and Increased Negative Behaviors***

The lack of policy surrounding limits to adoptive parents who frequently abandon children has been found to result in frequent dissolutions which compounded trauma for children who were already deemed to have experienced major trauma, necessitating the removal from

their homes (Brown, et al., 2022). These children are subsequently often treated as damaged, unadoptable, and at fault for the circumstances in which they find themselves (Brown, et al., 2022). The negative behaviors that they exhibit are simply the result of trauma that they had no part in inflicting upon themselves, and, depending on the child's age, the rejection they feel may result in them running away and the state losing track of the child (Brown, et al., 2022). These are the unfortunate results of a system that does not track unsuccessful adoptions and in Colorado results in 1,000 children in a 10-year span that were returned due to behavior problems (Brown, et al., 2022). The lack of policy is damaging to communities, who are recognizing that an increase in funding for services for adoptive families and their children is essential to preventing negative behaviors, trauma, and frequent dissolutions (Brown, et al., 2022). In short, a lack of policy means that all the effects on the child that dissolutions provide will continue to occur without restraint. There is nothing stopping them.

### ***Children Most Impacted***

We have addressed the concerns regarding the current behavioral and experiential impacts of dissolutions that will continue unabated without the presence of a policy to help limit dissolutions. However, it is worth noting the type of children that are more likely to have their adoptions dissolved. According to a USA Today study in 2020, of the 60,890 children that were adopted out of foster care from 2008-2010 from 16 different states, nearly 2,000 ended up back in the foster system by 2020 (Bajak, 2022). And as they dug further to discover the qualities that made children more likely to have the adoptions dissolved, the qualities included being black, being older when adopted, or having a mental health condition (Bajak, 2022), none of which were factors that children could control and were present at the time of adoption.

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