

Center for Adoption Policy

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Synopsis of Federal Response to the Practice of Private Re-Homing

The practice of private re-homing, or transferring adopted children to new parents without any official procedure, sparked media attention after Reuters published a series of articles on the practice.¹ These transfers, largely arranged over the Internet, put children at risk for abuse and psychological damage.² There has been limited response at the federal level, as legislative effort has been concentrated at the state level. This is largely because child welfare and adoption law is almost exclusively delegated to state governments. However, some members of Congress have urged the federal government to look further into the problem of re-homing.³

Existing federal law, although not explicitly banning the practice of private re-homing, may be helpful in preventing the practice. For instance, according to 42 U.S.C. §622 (b)(12), state child welfare services funded by the federal government must “collect and report information on children who are adopted from other countries and who enter into State custody as a result of the disruption of a placement for adoption or the dissolution of an adoption.” Unfortunately, even if properly collected, this information only includes children who enter state custody, and many of the children experiencing private re-homing do not end up in state custody.

Additionally, the Interstate Compact on the Placement of Children (ICPC) is an agreement between all fifty states to ensure that state child welfare authorities oversee custody transfers occurring across state lines.⁴ However, law enforcement officials rarely enforce this compact, or even have knowledge that it exists.⁵ Further, many states have

¹See Megan Twohey, *Americans Use the Internet to Abandon Children Adopted from Overseas*, REUTERS, Sept. 9, 2013, <http://www.reuters.com/investigates/adoption/#article/part1>.

²See Megan Twohey, *In a Shadowy Online Network, a Pedophile Takes Home a ‘Fun Boy’*, REUTERS, Sept. 9, 2013, <http://www.reuters.com/investigates/adoption/#article/part2>.

³See Letter from Ron Wyden, U.S. Senator, to Eric Holder, U.S. Dep’t of Justice, Rand Beers, U.S. Dep’t of Homeland Sec., John Kerry, U.S. Dep’t of State, and Kathleen Sebelius, U.S. Dep’t of Health and Human Serv. (Oct. 30, 2013) (urging federal investigation into the practice of re-homing and proposing a federal law prohibiting private re-homing); Letter from Jim Langevin, et al., to Dave Reichert, Chairman, House Ways and Means Subcomm. on Human Res. and Lloyd Doggett, Ranking Member, House Ways and Means Subcomm. on Human Res. (Oct. 29, 2013) (urging federal investigation into the practice of re-homing).

⁴See Interstate Compact on the Placement of Children, Article III, *available at* <http://www.childsworld.ca.gov/res/pdf/ICPCGuidebook.pdf>.

not provided for penalties in case of violations of the ICPC.⁶

Pending legislation such as the Supporting Adoptive Families Act could also be used to prevent the practice of private re-homing. The act would provide adoptive families with services before and after adopting a child including counseling, education, mentoring, and other support services.⁷ Such measures could prevent the conditions leading to a parent's attempt to re-home their adoptive child. However, no major action has been taken on the bill since its introduction in September 2013.

More recently, a bill has been introduced expanding the Protect Our Children Act of 2008 "to include combating the transfer of permanent custody or control of a minor in contravention of a required legal procedure, and for other purposes."⁸ These amendments law would prohibit engaging in the transfer of a minor in contravention of a required legal procedure.⁹ It is not clear how effective this amendment would be, as it is unclear whether the practice of private re-homing is in contravention of existing legal procedures. As of the time of this publication, the bill remains under consideration in committee.

The Senate Subcommittee on Children and Families held hearings regarding the practice of re-homing on July 8, 2014.¹⁰ Testimony provided at the hearings described the problem of re-homing and suggested the development and provision of post-adoption services to prevent the occurrence adoption disruption or dissolution.¹¹ Some children's advocates are calling for a federal law explicitly banning the practice of private re-homing.¹²

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⁵*Falling Through the Cracks: The Challenges of Prevention and Identification in Child Trafficking and Private Re-homing: Hearing Before S. Subcomm. on Children and Families*, 113th Cong. (2014) (statement of Megan Twohey, Investigative Reporter, Reuters).

⁶See The Interstate Compact on the Placement of Children, ICPC State Pages, available at <http://icpcstatepages.org/>.

⁷S. 1527, 113th Cong. § 2 (2013). See also H.R. 3423, 113th Cong. (2013–2014).

⁸H.R. 4704, 113th Cong. (2014).

⁹H.R. 4704, 113th Cong. § 1 (2014).

¹⁰*Falling Through the Cracks: The Challenges of Prevention and Identification in Child Trafficking and Private Re-homing: Hearing Before S. Subcomm. on Children and Families*, 113th Cong. (2014).

¹¹*Falling Through the Cracks: The Challenges of Prevention and Identification in Child Trafficking and Private Re-homing: Hearing Before S. Subcomm. on Children and Families*, 113th Cong. (2014) (statement of JooYeun Chang, Associate Commissioner, The Children's Bureau Administration for Children and Families).

¹²*Falling Through the Cracks: The Challenges of Prevention and Identification in Child Trafficking and Private Re-homing: Hearing Before S. Subcomm. on Children and Families*, 113th Cong. (2014) (statement of Megan Twohey, Investigative Reporter, Reuters).