



February 15, 2018

The Honorable Orrin D. Hatch
Chairman, Committee on Finance
United States Senate

The Honorable Ron Wyden
Ranking Member, Committee on Finance
United States Senate

Dear Chairman Hatch, Ranking Member Wyden, and Members of the Senate Finance Committee:

The Academy of Adoption and Assisted Reproduction Attorney, formerly known as the American Academy of Adoption Attorneys (Academy), is comprised of approximately 350 practicing adoption attorneys committed to improving the lives of children by advocating for the benefits and stability provided through adoption. As an organization, and through its members and committees, the Academy has lent *Amicus Curiae* assistance in numerous court cases and provided advice to Members of Congress and key agencies on multiple issues impacting adoption, including the drafting of the Uniform Adoption Act and the Adoption Tax Credit. Most recently, the Academy was active in the successful effort to preserve the Adoption Tax Credit as part of tax reform through the Adoption Tax Credit Working Group coalition of stakeholders.

In response to the Committee's solicitation of views from stakeholders on effective human service efforts to assist Americans affected by the opioid addiction crisis, the Academy appreciates this opportunity to provide its views on this matter to the Senate Finance Committee. As practicing adoption attorneys who are often involved during both the pregnancies of birth mothers and immediately after babies are born, many of us have seen first-hand the impact of this opioid crisis on children and families, including infants born with exposure to drugs in utero or children entering foster care as a result of a parent's addiction.

The face of infant adoption has changed significantly in recent years. While our country has faced the scourge of drug addiction and substance use disorder with an ever-changing array of substances, our attorneys have witnessed the growing number of children who are being placed for adoption at birth who had been exposed to drugs *in utero*, frequently opioids. These infants often require significant medical care at birth and may spend extensive time in the neonatal intensive care unit. As adoptive families welcome an infant into their loving home, they do so knowing that these children face the prospect of unknown long term medical and developmental challenges in the years ahead. Without adoptive families caring for these infants, many of them will enter an underfunded foster care system that has been flooded with children affected by the opioid addiction crisis. Given the profound impact the opioid addiction crisis has had on society as a whole, it has had a similar impact on the face of adoption.

While it is clear that the opioid addiction crisis has had a severe impact on infant adoptions as well as increased the number of children entering the foster care system, the policy solution to address these issues are much less clear. With that in mind, we want to highlight three policy recommendations to guide your review of this matter. Please consider these recommendations as areas for discussion, rather than bold policy recommendations; we stand ready to serve as a resource for you as you continue to seek answers in addressing the opioid crisis. When examining how issues and policies will impact families, our chief guiding principle is to determine and carry out actions that are guided by the best interest of the children.

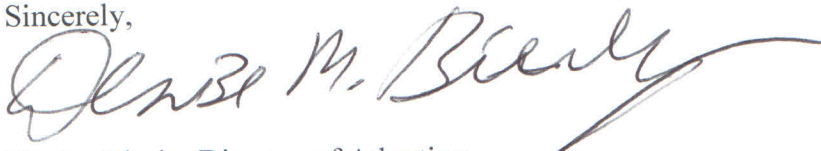
1. **The Adoption Tax Credit.** Without question, the Adoption Tax Credit serves as an important support for many of the children impacted by the opioid addiction crisis. In the case of infant adoption, when a prospective adoptive family is presented with a potential birth match where the birthmother has an opioid or related drug addiction, they are often told they can expect to spend the first several days or weeks of this child's life in the neonatal intensive care unit and that because there are no long-term studies of the impact of the addiction, the longer-term costs to care for this child are not known. In short, many prospective adoptive parents agree to adopt these babies with blind faith, knowing nothing other than extra hospital time is likely to be required and the assumption that this child will not sustain long-term consequences. The reality is that these children are at greater risk for significant medical, mental health and behavioral challenges in the future. As a result, the Adoption Tax Credit is important to so many families by helping to ensure children are able to be adopted into loving homes by easing the financial costs of adoption, particularly for children exposed to opioids as well as those with special needs. In recognition of the importance of the Adoption Tax Credit, it was retained by Chairman Hatch in the Senate's tax reform proposal and ultimately retained in the final tax reform measure, maintaining the current availability and amount of the tax credit for all Americans who currently qualify. The financial support provided by the Adoption Tax Credit can be a critical factor in families being able to adopt infants exposed to opioids, who are likely to need immediate medical attention and long-term support services, as well as children in foster care with developmental and emotional support needs. Beyond retaining the current Adoption Tax Credit, improvements should include reinstating refundability so more middle and lower income families can benefit as they welcome a child into their home. An adoption, which could be more likely if the Adoption Tax Credit were refundable, means a permanent home for those children exposed in utero to opioids or in foster care and affected by this crisis, thereby helping to reduce the cost of foster care to the States and federal government while mitigating the adverse impacts for these children.
2. **Informing Birth Parents of the Choice of Adoption.** In addition, we recommend supporting efforts to provide new mothers with infants born exposed to opioids or other substances with information from unbiased third-party entities, not connected to the hospital or a state child welfare agency, on their options for caring for the child. The Academy is aware of organizations currently offering services that include connecting new mothers with social safety net benefits and parenting information,

along with information to educate them about modern adoption models. We readily acknowledge that adoption is not a choice every parent will or should make for their child, but we believe it is important for these mothers to know all of their potential options when it comes to the future of her child. When appropriate, these efforts could be extended to pregnant women nearing delivery and identified as having a substance use disorder; counseling on how to ensure better health outcomes for the child, as well as options for adoption, should be provided. We believe that this counseling could be done by states under the foster care prevention services and programs permitted under the recently enacted Family First Prevention Services Act, in recognition that infants born with drug exposure may be at high risk for entering foster care. At a minimum, we believe a step that could be taken is to raise awareness that this funding option is available and could be used for this purpose.

3. **Strengthen Post Adoption Services.** Lastly, we recommend supporting post-adoption services, including increasing the availability of funds for these services, to support families who adopt children at birth or through foster care who were born exposed to opioids or other substances and have long term medical and emotional needs. The additional support services could be critical to mitigating the adverse impact on these children. The post-adoption support services that currently exist are wholly insufficient and underfunded, as well as inconsistent and sporadic across states; Congress' attention to improving this area is much needed.

Thank you again for your work on this important issue. As Congress works to address the immediate challenges of addiction and substance abuse, we ask that Congress ensure infants born with drug exposure and children in foster care as a result of this crisis are not forgotten. Please continue to view the Academy and its members as resources on adoption and other issues affecting children and families.

Sincerely,

A handwritten signature in dark ink, reading "Denise M. Bierly". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Denise Bierly, Director of Adoption