

2-1942

# Problems and Procedure in Adoption, by Mary Ruth Colby

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## Recommended Citation

(1942) "Problems and Procedure in Adoption, by Mary Ruth Colby," *Indiana Law Journal*: Vol. 17: Iss. 3, Article 10.  
Available at: <http://www.repository.law.indiana.edu/ilj/vol17/iss3/10>

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# REVIEW OF GOVERNMENT PUBLICATIONS

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PROBLEMS AND PROCEDURES IN ADOPTION, by Mary Ruth Colby. United States Department of Labor, Children's Bureau Publication No. 262. 1941. 130 p. For sale by the Superintendent of Documents, Washington, D.C., price 15¢.

This bulletin records the findings and conclusions gained from a survey of the adoption laws and procedures of nine states<sup>1</sup> where responsibility has been given to the state public welfare departments for the investigation of petitions of adoption. It appears to be a study of applied sociology rather than of law, but its result conclusively indicates the close tie that must exist between these two fields in order to gain successful administration of adoption laws.

The necessity of cooperation and understanding between the state and county welfare departments, authorized child placing agencies, and the courts is the theme of the pamphlet. The data and discussion are by no means limited to that, however, but include also explanatory material, tables, and illustrations on the topics of residence of petitioners and children, jurisdiction of courts, and the necessity of consent of the parents, guardian, state departments and other welfare agencies, and of the child himself. Special emphasis is placed upon the report of the welfare departments to the court, explaining the nature of the social investigation, the contents and preparation of the report, and the recommendation of the department to the court concerning the desirability of the proposed adoption.

Adoption should not consist of the adoptive parents going to an orphanage, picking out a child with a pleasing appearance, and then gaining the formal approval of the proper court. The child's race, health, mentality, background and disposition should be the subject of careful examination. The adoptive parents should be investigated just as carefully to determine their moral, mental, and social fitness, and their temperamental and financial ability to rear the child. The adoption should not be recommended by the welfare agency unless both child and petitioners are qualified and it appears reasonably certain that the child will fit well into the home.

It is obvious that the court, merely by holding a hearing, cannot secure this very important information. Only special case investigations can bring it faithfully to the attention of the court. Because of this it is especially desirable that courts, and attorneys, be aware of the benefits to be derived from relying on the information contained in the report. Of sixty-nine judges interviewed, the great majority approved the plan and regarded the state department's reports as more reliable than hearings. The ideal situation seems to exist in Minnesota and a few other states, where the welfare depart-

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<sup>1</sup> Alabama, California, Massachusetts, Minnesota, New Mexico, North Dakota, Oregon, Rhode Island, and Wisconsin; these states include about one-sixth of the population and one-fifth the area of the United States, and are representative of the different sections of the country.

ment is looked upon as a partner working with court for the best interest of the child. The chief criticism is that the procedure is sometimes slow, but if the department has expert investigators and sufficient funds unreasonable delays can be avoided. Furthermore, the department's report actually may save time by eliminating the necessity of lengthy hearings.

In addition to close cooperation between the courts and the welfare departments, it is essential that attorneys and the public understand the purpose and procedure of adoption. The relationship between authorized child placing agencies and state and county welfare departments should be clarified and their activities coordinated. In all adoptions the consent of the parents, guardian, or state department should be required. The rights of parents should be protected as far as practical and just, although their rights may be cut off by their own misconduct. It was found that publication of notice of pending adoptions is ineffective and inconsistent with provisions that all records and hearings be confidential. Courts should not be authorized to waive the investigation or to disregard investigation reports, for that is likely to defeat the policy of the act and endanger the welfare of the child. It is the child's welfare with which the court should be most concerned. It is deemed desirable that the child reside in the adoptive home at least six months before the final decree is entered, so that the child's development and adjustment may be considered. Special statutory provisions should protect the rights of the natural parent in the cases where the adoption is by a step-parent.

It is encouraging to note that the present Indiana act<sup>2</sup> remedies most of the defects and adopts most of the procedural advantages that are disclosed by this survey. The plain duty of the courts, attorneys, and welfare authorities is for each to understand the other's function under the adoption act, and to coordinate their functions wisely and sympathetically so as to carry into effect the policy of the statute.

**THE LAW BEHIND UNION AGREEMENTS**, by David Ziskind. United States Department of Labor, Office of the Solicitor. 1941, 87 p.

Concerned more with the law of contracts than with labor law this concise report "presents a summary of the important legal principles on what is needed to make a binding union agreement, what provisions are enforceable, how the courts generally interpret the terms of an agreement, what means of enforcement are available, who may enforce the agreement and who may be held responsible for violation."<sup>1</sup>

The brevity of this monography belies its completeness. There are sixty pages of annotations collecting the important state and federal decisions on the contract law of collective agreements. Although no attempt is made to critically analyze the rules, the work is nevertheless a useful guide to the ready discovery of the cases.

<sup>1</sup> Ziskind, *The Law Behind Union Agreements*, p. 1.

<sup>2</sup> Ind. Stat. Ann. (Burns Supp., 1941) §3-114 to §3-125. See the discussion of this act in the article by Bamberger, *supra*, p. —