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Bureaucratic delays

Adoption reforms leave children, parents in limbo

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For Law Times

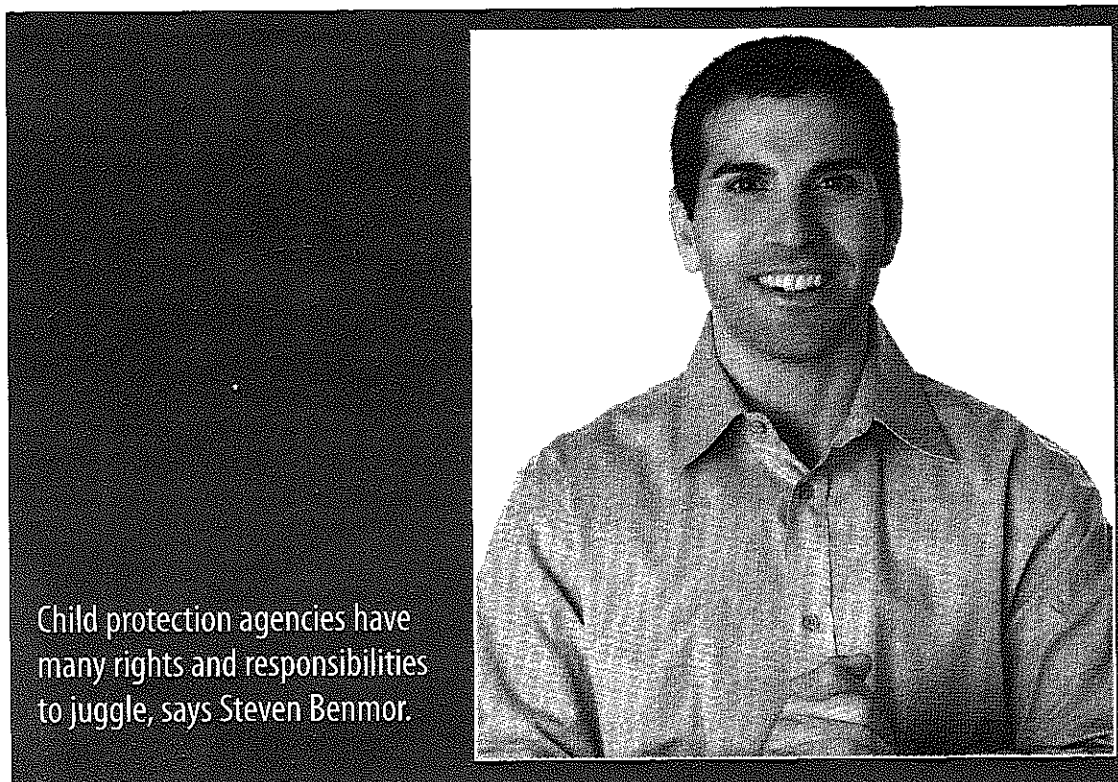
Despite changes to adoption laws that allow adoptions of wards of the state, flaws in the process are leaving eligible children and potential parents languishing on children's aid society waiting lists.

Recent articles by frustrated parents left in limbo by the bureaucracy have highlighted flaws in the structure and oversight of the child protection system. While Gov.-Gen. David Johnston has made a public appeal for more adoptive parents, the real problem seems to be in the administration of the system. There are currently 30,000 eligible children waiting across Canada, with 8,000 of them in Ontario, but there are also thousands of hopeful parents who are trying to work with an unwieldy and unsympathetic system.

Pat Convery, executive director of the Adoption Council of Ontario, says the problem is systemic. "In our system in Ontario, we recognize that families and children are not making timely connections. It takes too long for children to become available and too long for families to be found. There are challenges for people to become adopt ready. Ontario has so many different agencies where there can be so much variance in the way they do the work. We know that the system is the problem, not the people."

Robert Shawyer of Robert Shawyer Family Law in Toronto has gained experience with adoptions as a by-product of his child protection work. "Anyone dealing with any of the child protection agencies tends to find that they are rather opaque. It is difficult to know who to speak to and who to work with. It is a bureaucracy with multiple layers. If you want to adopt, the matter is not directly assigned to anyone. There may be an adoption worker who might recommend a family, but it then has to go through the branch meeting. There are lots of levels of red tape that you have to cut through."

Steven Benmor, chairman of the Ontario Bar Association's family law section, acknowledges that child protection agencies have a myriad of rights and responsibilities to juggle. "In the situation where a child is apprehended so that protection is afforded to the child, there are many steps that have to be taken. The parents have rights, too. Adoption, as opposed to custody or fostering, is permanent unless



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it is adoption with an openness order."

Legislation passed in 2011 dramatically increased the number of children in care available for adoption, but the change hasn't translated into the increase in actual adoptions the government foresaw at the time. A 2013 study by the Dave Thomas Foundation for Adoption found that while Canadians view foster-care adoption more favourably than private or international adoptions, they hold a negative perception about the Canadian foster-care system with 82 per cent identifying the paperwork and bureaucracy involved as one of their biggest concerns.

"People don't think of CAS with a friendly view. It is an intimidating organization," says Shawyer.

Shawyer believes legislative change is necessary. "The children and youth services act is an amalgamation of a variety of different legislation. It is an amorphous piece of legislation that goes right from the beginning — a finding of need for care — all the way to adoption. We need to make adoption legislation into its own act. That act could streamline and specify the process that adoptive parents have to go through, specify who is responsible, and specify timelines for the process and the probation period. Right now, it's up to the CAS worker."

Convery agrees. "There is no legislative requirement that we must find families. There needs to be stronger language in the act to bring in a sense of urgency. There need to be tight timelines and resources put in place."

She also supports oversight of the process. "There needs to be

somewhere people can go if they are falling through the cracks, whether it is a child or parent."

In fact, there's currently legislation before the legislature that will empower the existing child advocate to conduct investigations with respect to children's aid society services. Bill 8 followed several attempts to bring the ombudsman's investigative powers into the arena as all of the

other provinces have done. None of them succeeded, perhaps because Ontario has a unique system where independent, community-based entities run child-protection services rather than the government.

Shawyer supports the move to provide oversight for children's aid societies. "Unfortunately, some social workers who work for the CAS take it for granted

that their actions are always in the best interest of the children, which is not always the case. However, if an ombudsman or child advocate is going to be an effective mechanism, the legislation will have to provide the power to correct systematic issues that come to light."

As chairman of the OBA's public policy and governmental affairs committee, Shawyer hopes to bring the issue of adoption legislation forward. He notes the current government has a big focus on family law and hopes the attorney general will decide that adoption is an area of law the province needs to look at. Another opportunity to raise the issue may occur in the Ministry of Children and Youth Services' five-year review of the Child and Family Services Act. Shawyer hopes the OBA will put a submission forward that includes that topic by the Dec. 29 deadline.

Convery says that while the problem is a long-standing one, she hopes the momentum for change is building and will lead to a solution. "This is not a new problem. It's complicated. It will only work if we stay child focused and identify the places where people are getting stuck. Let's get an action plan in place." **LT**

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