

CI - 010M <sup>1</sup>/<sub>3</sub>  
C.G. - Loi modifiant  
le Code civil en matière  
d'adoption et  
d'autorité parentale

Thursday, November 19, 2009

The Right Honourable Me Kathleen Weil  
Attorney-General of Quebec  
Quebec, Quebec

RE: Proposals for Modification of Adoption Laws;

Dear Me Weil;

I wish to congratulate you on inviting public opinions concerning Open Adoption in Quebec. At the present time, social workers and family services in Quebec lag far behind their colleagues in most of North America, in the necessary acceptance and practice of open adoption.

The proposed legislation is a small first step in modernizing the practices of family services affecting adoption in Quebec. The Quebec adoption community is multi faceted. The adoption triad of birth families, children, and adoptive families embrace a wide age range, reasons for the adoption plan, and countries of origin.

Your proposed legislation focuses on but one facet of the adoption community - the children in the Banque mixte. The Banque mixte in Quebec places perhaps 100 children in permanent adoptive homes per year. The concept of the Banque mixte is very modern, where hopeful adoptive parents are invited to foster a child whose birth families are seen, by the Crown or Social Services, as being in a probable situation of making a adoption plan for their child.

In introducing the concept of open adoption to the adoption triad in the Banque mixte, you will allow social workers to test the waters of open adoption in a very small part of the adoption community in Quebec.

In open adoption, as applied to the Banque mixte, your legislation goes further than in most North American jurisdictions. The proposed legislation includes putting the names of both the birth parents and adoptive parents on the child's birth certificate. This is totally unnecessary when birth families and adoptive families embrace open adoption with the long term objective being the opportunity of adopted children to know more about themselves.

...2

-2-

2/3

The legislation you propose in putting the names of birth and adoptive parents on the child's birth certificate, sets the stage for future petty and bitter litigation instead of working on long term harmony between the two families, on behalf of the child. In most of North America where successful open adoption is practiced, the amount of contact, varies during a child's life.

Healthy open adoption guards against any hint of power struggles between birthparents and adoptive parents. Unfortunately, your proposed legislation encourages a form of co-parenting that could very well create power plays between birth parents and adoptive parents as the child grows up.

This proposed practice deviates from the context of successful open adoption in North America. In open adoption, as it is practiced in North America, the adoptive parents are the only legal parents of the child. Open adoption, as it is practiced, allows for ongoing discussion and contact with birthparents, with the focus being the needs of the child. The extent of contact varies during the lives of all involved in the adoption triad.

In its positive aspect, your proposed legislation on open adoption acknowledges that adoption involves painful separations for both the birthmother and the adopted child in the Banque Mixte. Adoptive parents also witness the pain of the separation in their adopted children at various times in their lives. As such you must also acknowledge the emotional pain of Quebec's adult adoptees of all ages, no matter the circumstances of the adoption. The legislation must be extended to include the opening of all records on behalf of adult adoptees and birthparents in Quebec.

The Quebec adoption community comprises tens of thousands of adult adoptees who, to varying degrees, need or want to contact their birth families and know their medical histories. The community includes tens of thousands of birth parents who have made adoption plans for their children in the past, but who think about these children everyday. Many adoptive parents embrace the idea of contact, communication, or knowledge of birth families for their adopted children. They would like the opportunity of helping their children learn more about themselves.

The Quebec adoption community also includes future birthmothers and birth families faced with unplanned or unwanted pregnancies. The greatest apprehension of birthmothers when they make an adoption plan is the dread that they may never see their children again. Given the opportunity of open adoption, most birthmothers would be satisfied with a means of contact periodically with their children, either directly or indirectly.

...3

- 3 -

wjm

In Quebec, women in a situation of an unplanned or unwanted pregnancy have two choices: abortion or raising their children in unstable or economically deprived homes. In Quebec, women in distress don't have the option of domestic or private adoption where they could place their babies in a Quebec home. In Quebec, private adoption or domestic adoption is illegal. Hopefully, your new legislation will eventually make domestic adoption legal in Quebec for future birthmothers.

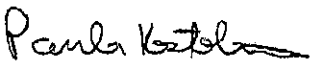
In Quebec, social workers have been steadfast in keeping adoption records closed for all adoptees. Similarly, they have been steadfast in upholding the law against domestic or private adoption. I am especially curious as to when your new legislation is implemented, how the Attorney General shall oblige social workers, in the Ministry of Social Affairs, to drop their vigilance against the opening of adoption files, even to the small population of the Banque mixte. How will the legislation melt away the long standing vigilance, by Quebec's social services, against keeping contact lines open between birth and adoptive families, even within the small community of the Banque mixte?

Your proposals are literally baby steps in modernizing the many faceted adoption community in Quebec. I hope that my brief shines light on the multi faceted reality of the adoption triad in Quebec. You are to be congratulated in proposing open adoption to a small sector of the adoption community in Quebec. However, it must be implemented in a way that will encourage contact that is positive for the child. Putting two sets of parents on the child's birth certificate is a dangerous experiment.

In acknowledging the emotional need for open adoption to the children of the Banque mixte, the legislation must lead the way to opening all files, on behalf of adult adoptees and their birth families in Quebec. Also, on a positive note, the legislation has the potential opening the doors to domestic adoption in Quebec.

Thank you.

Sincerely,



Paula Kestelman  
250 Kensington #303  
Westmount, Quebec  
H3Z 2G8

tel. 514-739-1801  
fax. 514-739-1412