1982

Gladys Fay Wells, Guardian Ad Litem For Dennis Edgar Wells, Jr., A Minor Over the Age of 14 Years, Plaintiffs and Respondents, v. Children's Aid Society of Utah, Successor in Custody of Kimberly Bronson, Mother of Baby Boy Bronson and Kimberly Bronson, Defendants and Appellants, John Doe And Mary Doe, and Robert D. Maack, Esq/. Guardian Ad Litem For Baby Boy Bronson, Inventors And Appellants : Brief of Appellants Children'S Aid Society And Kimberly Bronson

IN THE SUPREME COURT

OF THE STATE OF UTAH

GLADYS FAY WELLS, Guardian ad litem for DENNIS EDGAR WELLS, JR., a minor over the age of 14 years,

Plaintiffs and Respondents

vs.

CHILDREN'S AID SOCIETY OF UTAH, successor in Custody of KIMBERLY BRONSON, Mother of BABY BOY BRONSON, and KIMBERLY BRONSON,

Defendants and Appellants,

JOHN DOE and MARY DOE, and ROBERT D. MAACK, ESQ., Guardian ad litem for BABY BOY BRONSON,

Intervenors and Appellants.

SUPREME COURT No. 18537

BRIEF OF APPELLANTS CHILDREN'S AID SOCIETY AND KIMBERLY BRONSON

Appeal from a final order of the Honorable Boyd Bunnell of the Seventh Judicial District Court of Grand County, Utah.

JANE A. MARQUARDT
MARQUARDT, HASENYAGER & CUSTEN
Attorneys for Appellants
Children's Aid Society of Utah
and Kimberly Bronson
635 Twenty-Fifth Street
Ogden, Utah 84401

TIM W. HEALY
Attorney for Appellant
Intervenors
363 25th Street
Ogden, Utah 84401

ROBERT D. MAACK
Guardian Ad Litem
310 South Main
Salt Lake City, Utah 84101

PAUL GOTAY
Attorney for Respondents
7306 South 1300 East
Midvale, Utah 84047

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BRIEF OF APPELLANTS CHILDREN'S AID SOCIETY AND KIMBERLY BRONSON

PRELIMINARY STATEMENT

In this action Respondent Dennis E. Wells, Jr. seeks to gain custody of his illegitimate son, despite the fact that the natural mother, defendant Kimberly Bronson, relinquished custody of the child to Appellant Children's Aid Society of Utah prior to the date on which Respondent filed his Acknowledgment of Paternity form with the State Department of Vital Statistics. Prior to this filing by Respondent, Baby Boy Bronson was placed in the home of the

proposed adoptive parents, Appellant Intervenors John and Mary Doe, where such child has remained to this date.

DISPOSITION IN LOWER COURT

This action was tried in the Seventh Judicial District Court of Grand County, State of Utah, before the Honorable Boyd Bunnell, on April 15, 1982. On May 17, 1982, Judge Bunnell issued Findings of Fact, Conclusions of Law, and a Decree ruling that Respondent Dennis E. Wells, Jr. is entitled to custody of Baby Boy Bronson. The court found that, under the facts of this case, Respondent had been denied a reasonable opportunity to file his Acknowledgment of Paternity prior to Children's Aid Society's placement of the child and that therefore the Acknowledgment was entitled to legal recognition. Judge Bunnell further granted a stay of execution on the judgment, allowing the child to remain in the physical custody of Intervenors John and Mary Doe until final judgment by the Utah Supreme Court.

RELIEF SOUGHT ON APPEAL

Appellants ask this Court to reverse the lower court's decision and to rule that, pursuant to Section 78-30-4, Utah Code Annotated, as amended 1981, Respondent Dennis E. Wells, Jr. is barred from asserting any parental rights to Baby Boy Bronson by the fact that he failed to file an Acknowledgment of Paternity prior to the date on which the natural mother relinquished custody to an agency licensed to provide adoption services.

STATEMENT OF FACTS

Baby Boy Bronson was born on September 23, 1981, in Ogden, Utah, the illegitimate child of Appellant Kimberly Bronson. Kimberly was age sixteen at the time of birth, as was Respondent Dennis E. Wells, Jr., the father of this child. Both Kimberly and Dennis were in their junior year of high school at Grand County High School, Moab, Utah. On September 24, 1982, Kimberly signed an Affidavit and Release, relinquishing her parental rights and placing the child in the custody of Appellant Children's Aid Society for the purpose of adoption (R. p.70).

On September 23, 24, 25 and 28, representatives of the Children's Aid Society had telephone conversations with personnel in the State Office of Vital Statistics to determine whether or not an Acknowledgment of Paternity form had been filed in relation to Baby Boy Bronson. In each of those phone conversations, they were advised that no such form had been received (R. p.102, para.25).

On or about September 25, 1981, Children's Aid placed Baby Boy Bronson in the home of Intervenors John and Mary Doe for the purpose of adoption (R. p.102, para.27). On September 28, 1981, the Utah State Department of Health issued a Certificate of Search document verifying that no Acknowledgment of Paternity form had been filed in relation to Baby Boy Bronson (R. p.72).

On September 30, 1981, an agent of the Utah

Department of Health advised Children's Aid that it had received on September 30, 1981, an Acknowledgment of Paternity form signed by Dennis E. Wells, Jr. (R. p.103, para.28). This form had been signed on September 18, 1981, and mailed from Moab, Utah to the Department of Vital Statistics in Salt Lake City, Utah on September 23, 1981 (R. p.102, para.24). In mid-October, 1981, Respondent Dennis E. Wells, Jr. filed this lawsuit, by and through his mother and guardian ad litem Gladys Fay Wells, in an attempt to gain custody of Baby Boy Bronson and to remove him from the care of John and Mary Doe.

Respondent Dennis E. Wells, Jr. first received an indication of the impending birth of Baby Boy Bronson in mid-January, 1981. At that time, Kimberly Bronson advised him that she had missed a menstrual period and believed she was pregnant (R. p.98, para.3). Kimberly and Dennis, who were dating steadily in the fall of 1980 (Tr. p.173, lines 16-25), had engaged in sexual intercourse, with the last time being on or about December 23, 1980 (Tr.pp.128, 176). Shortly after their mid-January, 1981 conversation, Kimberly and Dennis stopped dating and had no further communications about the pregnancy (Tr.pp.178 & 179 (lines 1-7); pp.31,32).

The actual medical confirmation of the pregnancy did not come until August 31, 1981, when it was verified by Dr. Jay P. Munsey in the course of a routine physical exam (although both Kimberly's mother (Tr. p.157) and Dennis'

mother (R. p.98, para.5) suspected the pregnancy during June or July, 1981). On August 31, Dr. Munsey measured the development of the unborn child and advised Kimberly that she would give birth on or about September 23, 1981 (R. p.98, para.6).

Respondent and his family received confirmation of Kimberly's pregnancy within the next few days. On September 2, Kimberly's step-father informed Dennis' father that Kimberly was pregnant, was due to deliver in three weeks, and that Dennis was the father (R, p.99, para.8). Also on September 2, Kimberly's boyfriend informed Dennis that Kimberly was pregnant, was due to deliver in three weeks, and that Dennis was the father (R. p.99 para.9). That evening, Dennis informed his mother of Kimberly's pregnancy and of the fact he had sexual intercourse with her, the last time being December 23, 1981.

On September 4, Dennis' mother met with Dr. Munsey and was told that Kimberly was pregnant and that the child was due to be born on or about September 23, 1981 (R. p.99, para.11). Despite this confirmation from Dr. Munsey, Mrs. Wells doubted Kimberly was eight months pregnant. She had seen Kimberly actively involved in sports during the past summer and did not believe she was big enough to have a child that soon.

Subsequent to this confirmation of pregnancy, Mrs. Wells informed Kimberly that she and her husband were

willing to offer financial and personal care assistance with the child. She told Kimberly that she doubted that she would want to relinquish the child for adoption once it was born, but that if she did the Wells family wanted the baby (R. p.99, para.13). At no time did Dennis himself have any conversation with Kimberly. He did not express concern to her over what she would do with the child; nor did he inform her that he wanted to raise the child if she didn't.

> Q. (Ms. Marquardt) You never called Kim and discussed with her what she was going to do with the child?
>
> A. (Dennis E. Wells, Jr.) No.
>
> Q. You never called Kim Bronson and said: "... You're going to have my baby. Let's talk about this." You never did that, did you?
>
> A. No.
> (Tr. p. 171, lines 23-25; p. 172, lines 1-5)

As mentioned, Kimberly did have communications from Dennis' mother. Around September 11, 1981, Kimberly advised Mrs. Wells that she had not decided whether she would place the child for adoption (R. p.100, para.14). Kimberly met with Mrs. Colleen Burnham, a representative of Children's Aid Society, on September 12 and discussed the possibilities of adoption (Tr. p.224).

On September 14, Mrs. Burnham met with Mrs. Wells and Dennis. During this discussion, Mrs. Burnham pointed out the difficulties the child would face if it were to be

raised by Dennis and his mother and the hardships that would be imposed on Kimberly. Mrs. Wells stated that Dennis' family did want to raise the child, but that the actual decision was up to Dennis. Dennis himself was largely silent during this meeting. At the close of the meeting, Mrs. Burnham gave them her business card and told them to contact her if, upon further consideration, they persisted in the desire to raise the child (R. p.100, para.15; Tr. pp. 227, 228).

This meeting was the last conversation between Mrs. Burnham and any member of the Wells family. Dennis never spoke with her or attempted to contact her again (Tr. p. 173, lines 7-11). Mrs. Well's only efforts to contact her were two phone calls between September 18 and September 23. Mrs. Burnham was not in at the time of either call. Mrs. Wells left her name as having called, but did not leave a request for Mrs. Burnham to call her back. (R. p.101, para.21).

In mid-September Mrs. Wells sought legal advice on what needed to be done to assert rights to the unborn child. On September 14, she phoned the law office of Coffman and Coffman in Moab. She was given an appointment with Mrs. Penelope Coffman for September 17 and was instructed to obtain the forms necessary for making a claim to the child (R. p.100, para.16 & 17). After discussing the situation with her attorney, Mrs. Wells made arrangements to have

Dennis sign the Acknowledgment of Paternity form.

On September 17, Mrs. Wells learned that Kimberly had left for Ogden for the presumed purpose of giving birth and relinquishing custody of the unborn infant. On September 18, Mrs. Wells brought her son to their attorney's office, where he executed the Acknowledgment of Paternity form (R. p.101, para.19).

After consultation with their attorney, Mrs. Wells decided to delay the actual filing of the Acknowledgment of Paternity. She was still concerned that Kimberly was not as far along in her pregnancy as Dr. Munsey had stated, and did not want to make any claim to the child if it were not born in September. If it were born later, she did not believe it would be Dennis' child, and in that case wanted nothing to do with it (R. p.102, para.22).

During this time period, Mrs. Wells was talking with Mr. Walter Miller, an employee of the Utah Division of Family Services, about the unborn child. Mr. Miller testified that he did adoption work for the Division of Family Services, that he had a copy of the adoption law in his office, and that he discussed with both Mrs. Wells and her attorney Mrs. Coffman the importance of filing the paternity form if they were to have any claim to the child (Tr. p. 153, lines 15-25; p. 154, lines 1-17).

At Mrs. Wells's request, Mr. Miller had some phone conversations with someone at Children's Aid. Although Mr.

Miller had no recollection of exactly when he made these calls, with whom he spoke, or what was said (Tr. p.148, lines 2-6), he did generally discuss that Mrs. Wells had spoken with him about keeping the child, that Mrs. Wells had requested Acknowledgment of Paternity forms for filing, and that this would be a difficult situation for the parents and the child if the Wells actually kept him (R. p.101, para.20; Tr. p.149).

On September 23, 1981, Dennis and Mrs. Wells learned of the birth of Baby Boy Bronson and asked their attorney to file the paternity form. The form was mailed on that day and received by the Department of Vital Statistics on September 30, 1981. The lower court took judicial notice of the fact that this was an unusual delay in the time for such mail deliveries (R. p.102, para.23 & 24).

By the time the paternity form was properly filed, the natural mother had already relinquished custody and Baby Boy Bronson had been placed in the home of John & Mary Doe. Respondents therefore filed this lawsuit in an attempt to gain custody.

At the trial of this action, the court refused to hear testimony from John & Mary Doe, ruling that they had no standing as against the natural father (R. p.104, para.9). The court also refused to hear anything other than hypothetical testimony from Dr. Harvey P. Wheelwright, a psychiatrist familiar with Mr. and Mrs. Doe and the care

they were providing the child. This refusal was based on the court's finding that the best interest of the child was immaterial unless it was first proven that the natural father was unfit (Tr. p.259; p.260, lines 1-3).

The court did not believe that anything presented at trial proved Dennis unfit, and therefore ruled that it would be in the best interest of the child to award custody to his father (R. p.104, para.8). Transfer of custody to Dennis was stayed until final judgment of the Utah Supreme Court (R. p.104, para.10). In the interim, Appellants were enjoined from doing anything further to pursue the adoption fo Baby Boy Bronson (R. p.105, para.11).

ARGUMENT

POINT I. AN UNWED FATHER WHO FAILS TO FILE HIS ACKNOWLEDGMENT OF PATERNITY WITH THE DEPARTMENT OF VITAL STATISTICS PRIOR TO THE TIME THE MOTHER RELINQUISHES CUSTODY OF THE CHILD TO AN ADOPTION AGENCY IS BARRED FROM ASSERTING ANY CLAIM TO THE CHILD UNLESS HE CAN SHOW IT WAS IMPOSSIBLE FOR HIM TO COMPLY WITH THE LAW THROUGH NO FAULT OF HIS OWN.

Section 78-30-4(3), Utah Code Annotated, as amended 1981, allows a father to claim paternal rights to an illegitimate child by registering a notice of his claim of paternity with the Registrar of Vital Statistics in the Department of Health. The statute provides that a father who fails to file and register his claim of paternity prior to the date on which the illegitimate child is relinquished or placed with an adoption agency shall be barred from

thereafter bringing any action to establish paternity. (See Appendix for text of Section 78-30-4(3)).

At issue in this lawsuit is whether or not Respondent Dennis E. Wells, Jr. falls within the exception to that statute which this court recently created in the case of Ellis v. L.D.S. Social Services, 615 P.2d 1252 (Utah 1980). In Ellis, the Court upheld the constitutionality of Section 78-30-4(3) and stated that the statute makes it clear that if a child is placed for adoption through an agency, the father has only until the mother relinquishes custody to the agency to register his paternity claim. The Court then ruled that the only time a father will not be barred by such a relinquishment is in a situation where he had no reasonable opportunity to comply with the statute.

Ellis involved a fact situation where the father did not register his notice of paternity with the State Department of Health before the mother relinquished custody because he did not know the mother had come to Utah to have the child. The father and mother were residents of California - she came to Utah shortly before giving birth for the specific purpose of preventing the father from knowing the child's whereabouts. In circumstances such as these, the Court recognized that there might be an exception to the statute:

> In the usual case, the putative father would either know or reasonably should have known approximately when and where

> his child was born. It is conceivable, however, that a situation may arise when it is impossible for the father to file the required notice of paternity prior to the statutory bar through no fault of his own. In such a case, due process requires that he be permitted to show that he was not afforded a reasonable opportunity to comply with the statute. 615 P.2d at 1256.

Thus Ellis creates a narrow situation in which a father who failed to comply with the statute may still assert parental rights. If, through no fault of his own, it would have been impossible for a father to register his notice on time, he should be given a chance to be heard. Ellis does not say that every unwed father who has some plausible reason for neglecting to file his notice of paternity on time should be deemed to have complied with the statute. Rather, it limits the application of such an exception to persons in an extreme situation such as Mr. Ellis - that is, how could he possibly have filed a notice of paternity when he didn't know to which of fifty states the mother might have gone to give birth.

> POINT II. THE LOWER COURT ERRED IN RULING THAT DENNIS E. WELLS, JR. FALLS WITHIN THE ELLIS EXCEPTION AND IN RULING THAT HE SHOULD THEREFORE BE RECOGNIZED AS THE CHILD'S LEGAL FATHER.

The trial court ruled that Dennis E. Wells, Jr. was denied a reasonable opportunity to file his Acknowledgment of Paternity prior to placement of the child by Children's Aid Society (R.p.104,para.6). Because of this, it declared

that his Acknowledgment is entitled to legal recognition and that custody of the child belongs to Dennis (R.p.104, para.7).

This application of the exception to the statutory filing requirement created by this Court in Ellis clearly goes beyond the intent of the Ellis decision. That decision should be read to mean that only those unwed fathers who can show that they were in a similar predicament - one in which it was impossible to comply with the statute through no fault of their own - will be excused from the statute's strict filing requirements.

Dennis E. Wells, Jr. was not in a situation where it would have been impossible to comply with the statute. Rather, his failure to timely file his Acknowledgment of Paternity was a product of his own indecision and delay - neither of which amount to legal justification for being excused from complying with the law.

It is an elementary provision of law that all persons are charged with knowledge of the provisions of statutes and must take notice thereof. 58 Am. Jur. 2d Notice §21. In addition to this basic duty to be aware of the adoption law's strict filing requirement, Respondents had every opportunity to become well informed of the statutory requirements. They had obtained their own attorney at least nine days prior to the child's birth. They certainly knew what form had to be executed in view of the fact that Dennis

signed the Acnowledgment on September 18, 1981. They had not only the advice of legal counsel, but also the advise of a Division of Family Services adoption worker who had a copy of the very statute from which they seek to be excused (Tr. p.153).

Respondents claim they were justified in waiting to file the Acknowledgment because they didn't believe the baby would be born in September, and if it was born later than that, they didn't believe it would be Dennis' child. Yet Mrs. Wells met with Kimberly's physician on September 4, and was told that the child was due on or about September 23 (Tr. pp. 96, 113, 232). The same due date was communicated to Respondents by Kimberly and Kimberly's father. Mrs. Wells's reluctance to believe that fact is not justification for failing to timely file.

Respondents made the decision, in consultation with their attorney, to delay the actual filing of the Acknowledgment (Tr.pp. 136, lines 15-25; 137, lines 1-6). With knowledge that Kimberly had gone to Ogden to give birth, and with good cause to believe she was going to place the child for adoption, they still delayed in filing their claim. Even when they learned of the child's birth on September 23, they did nothing more than direct their attorney to mail the Acknowledgment.

Certainly there were other things Respondents could have done to preserve their claim to the child. Mrs. Wells

testified that she was available to drive to Salt Lake City (Tr. pp. 122, 123); yet that was not done. Respondents made no calls to the Department of Vital Statistics to tell them the Acknowledgment was coming. Neither Respondents nor their attorneys contacted the adoption agency or Kimberly or Kimberly's family to advise them that they were filing the Acknowledgment.

This Court, in writing the Ellis opinion, did not carve an exception to the filing requirement which was so broad as to include a person in Respondent's situation. Ellis did not say that an unwed father who has the advantage of legal counsel, who has the proper form to claim paternity in his possession, who has received medical confirmation of when the child is due and who knows that the mother is contemplating relinquishing the child for adoption, yet who simply mails his Acknowledgment of Paternity and takes no further steps to preserve his parental rights, will be relieved from the strict statutory requirement that the Acknowledgment must be filed prior to the mother's relinquishment of custody.

POINT III. RULING THAT AN UNWED FATHER IN RESPONDENT'S POSITION SHOULD BE EXCUSED FROM COMPLYING WITH THE STATUTORY FILING REQUIREMENT PLACES AN UNTENABLE DUTY ON ADOPTION AGENCIES.

If this Court affirms the lower court and rules that the Acknowledgment filed by Respondent is entitled to legal recognition, it is placing a duty on adoption agencies far beyond the one that has been imposed by the Utah Legislature. It will be signalling the agencies that they have an affirmative duty to obtain formal verification from a known putative father that he does not intend to assert any claim to the illegitimate child. Such a duty is not per se unbearable; however, it is a policy decision which must be made by the Legislature. It is up to the Legislature to specify how that verification is to be obtained and to spell out what notice is to be given to a putative father.

The Legislature has created a system of adoption whereby an adoption agency can be certain that the child is legally capable of being adopted. If the Department of Vital Statistics issues a Certificate of Search verifying that no paternity claim has been made, the agency is free to place the child.

The obvious reason for this system is that it gives certainty to the placement of children. To leave unsettled the rights of a putative father following the mother's relinquishment to the agency would place the agency in a very difficult position. It would have to either place the

child with prospective adoptive parents with the possibility of the father taking the child back from them, or it would have to hold the child in limbo (while bearing the expense of caring for the child) until a court delcares the putative father to have no claim.

Neither of these results are desirable, and the Legislature has designed an adoption system which avoids them. If, in the interest of extending greater rights to unwed fathers, the Legislature chooses to place a greater duty on adoption agencies, such as requiring them to obtain a written consent from a known father, it is free to do so. However, that change would be prospective and agencies would have advance notice of it. If the Court rules that the Acknowledgment filed by Respondent is valid, it is saying that Appellant Children's Aid Society was not entitled to rely on the statutory system enacted by the Legislature. Such retroactive modification of the adoption procedures would be both unfair and unwarranted.

This Court pointed out the important public policy behind the adoption laws in In Re Adoption of F, 488 P.2d 130 (Utah 1971), a case in which the Court refused to allow a natural mother to get her child back from the custody of the adoptive parents. The Court stated:

> It is and should be the policy of the law to so operate as to encourage the finding of suitable homes and parents for a child in need. It is obvious that persons who might be willing to accept a child for

> adoption will be more reluctant to do so if a consenting parent is permitted to arbitrarily change her mind and revoke consent, and thus desolate the plan of the adoptive parents and bring to naught all of their time, effort, expense and emotional involvement. 488 P.2d at 134.

Similarly, the Legislature's chosen method of determining the rights of a putative father encourages the finding of suitable homes and parents for children in need.

POINT IV. THE LOWER COURT ERRED IN RULING THAT APPELLANT KIMBERLY BRONSON HAS ABANDONED THE CHILD.

The district court concluded that the natural mother, Kimberly Bronson, had abandoned the child by signing over her parental rights to a child placing agency (R. p. 104, para. 4). However, when Kimberly signed the Affidavit and Release (R. p. 70), she did so with the understanding that the child would be placed in the home of third parties for the purpose of adoption.

In the event that Respondent is successful in claiming paternal rights to the child herein, the purpose for which Kimberly released her child will not be carried out. If the contemplated contract is not effectuated, Kimberly ought to be released from any legal obligation under that document and put in a position of asserting her own parental rights to the child if she so desires.

The Court recognizes that agreements of adoption are merely contractual arrangements and are entitled to be enforced in the same manner as other types of contracts. In

In Adoption of K, 465 P.2d 541 (Utah 1970). In In Re Adoption of F, 488 P.2d 130 (Utah 1971), a case in which the natural mother sought to break the agreement she had signed whereby she relinquished custody of her child, this Court said:

> Such a duly executed agreement can be avoided only on a showing that it was not entered into voluntarily but was induced through duress, or undue influence, or some misrepresentation or deception, or other ground which would justify release from the obligations of any contract. 488 P.2d at 133.

If Children's Aid Society is unable to perform its portion of the contract, that is to place the child in the home of a third party for adoption, then Kimberly may be excused from performing her portion of the contract. Because this possible failure of performance may place Kimberly in a legal position of being excused from her relinquishment of custody, the lower court was incorrect in ruling that as a matter of law she has abandoned the child.

> POINT V. IT WAS ERROR FOR THE TRIAL COURT TO REFUSE TO CONSIDER THE BEST INTEREST OF THE CHILD IN MAKING A CUSTODY AWARD.

See brief of Appellant Intervenors John and Mary Doe.

CONCLUSION

Appellants ask this Court to reverse the lower court's decision, thereby allowing Baby Boy Bronson to remain in the custody of John and Mary Doe. The only time in

which an unwed father who fails to file his Acknowledgment of Paternity prior to the time the mother releases the child to an adoption agency will be allowed to assert parental rights is when circumstances, created through no fault of his own, made it impossible for him to comply with the law. Respondent Dennis E. Wells, Jr. does not fall within this exception. His own neglect in exercising due diligence was responsible for his failure to comply with the statute. Accordingly, he should be barred from asserting any right to Baby Boy Bronson.

DATED this 17th day of December, 1972.

Respectfully submitted,

JANET A. MARQUARDT
MARQUARDT, HASENYAGER & CUSTEN
635 Twenty-Fifth Street
Ogden, Utah 84401
Attorneys for Appellants
Children's Aid Society of Utah
and Kimberly Bronson

CERTIFICATE OF MAILING

I hereby certify that on this 17 day of December, 1982, I mailed a true and correct copy of the above and foregoing Brief of Appellants Children's Aid Society and Kimberly Bronson, postage prepaid, to Tim W. Healy, 863 25th Street, Ogden, Utah 84401, Robert D. Maack, 310 South Main, Salt Lake City, Utah 84101 and Paul Gotay,

696 South 1300 East, Midvale, Utah 84047.

SECRETARY

78-30-4(3), Utah Code Annotated, as amended 1981.

(3)(a) A person who is the father or claims to be the father of an illegitimate child may claim rights pertaining to his paternity of the child by registering with the registrar of vital statistics in the department of health, a notice of his claim of paternity of an illegitimate child and of his willingness and intent to support the child to the best of his ability. The department of health shall provide forms for the purpose of registering the notices, and the forms shall be made available through the department and in the office of the county clerk in every county in this state.

(b) The notice may be registered prior to the birth of the child but must be registered prior to the date the illegitimate child is relinquished or placed with an agency licensed to provide adoption services or prior to the filing of a petiton by a person with whom the mother has placed the child for adoption. The notice shall be signed by the registrant and shall include his name and address, the name and last known address of the mother, and either the birthdate of the child or the probable month and year of the expected birth of the child. The department of health shall maintain a confidential registry for this purpose.

(c) Any father of such child who fails to file and register his notice of claim to paternity and his agreement to support the child shall be barred from thereafter bringing or maintaining any action to establish his paternity of the child. Such failure shall further constitute an abandonment of said child and a waiver and surrender of any right to notice of or to a hearing in any judicial pro-

ceeding for the adoption of said child, and the consent of such father to the adoption of such child shall not be required.

(d) In any adoption proceeding pertaining to an illegitimate child, if there is no showing that the father has consented to the proposed adoption, it shall be necessary to file with the court prior to the granting of a decree allowing the adoption, a certificate from the department of health, signed by the state registrar of vital statistics which certificate shall state that a diligent search has been made of the registry of notices from fathers of illegitimate children and that no registration has been found pertaining to the father of the illegitimate child in question.