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Birthing Bad Legislation

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Hilary Sedgeman is a bright, happy 9-year-old. Her mom -- the only mother Hilary has ever known -- Martha Cook-Sedgeman, chokes up with happiness as she describes her daughter: "precocious," "honor roll student," "excels at everything."

Two weeks ago, Hilary was baptized along with her dad, Bill Sedgeman, at Bell Shoals Baptist Church in Brandon. "I was so proud," Mom recalls.

If it seems like a charmed life for blond-haired, green-eyed, dimpled Hilary, it is. But it didn't start out that way.

Hilary was born two months premature. Her birth mother exited when Hilary was 1 day old. There were clearly problems at birth, which would become apparent later as a 70 percent loss of hearing.

The Sedgemans, who had arranged to adopt Hilary before her birth, had to guarantee an unexpected \$100,000 in medical bills. "The costs were staggering," Martha recalls. When the adoption was final a few months after Hilary's birth, the Sedgemans' health insurance kicked in and paid 80 percent of the bills from that point on. But not a dime would have been paid by insurance had the adoption been delayed.

It could have been worse. In fact, if legislation before Gov. Jeb Bush becomes law, it will be worse -- horrible -- for thousands of Hilarys in Florida.

The fix-what's-not-broken law -- SB138/HB141, already passed by both houses of the Florida Legislature -- would devastate adoptions in the state. If it had been the law nine years ago, it would have been impossible for the Sedgemans to quickly adopt Hilary. They would have had to bear the full cost of the baby's medical bills for years. Although the Sedgemans -- she's a lawyer, he's chairman of a small bank -- have resources, Martha says, "I'm not sure we could have done that."

Instead, Hilary might have ended in the abysmal gulag of state agencies and foster homes. There are many fine foster parents. There are many who aren't. I know. I've got five adopted children, and I know their history of nine years in hell.

The highly specialized medical care that was needed to save Hilary's life probably wouldn't have been available because she might not have been adoptable under SB138/HB141. The medical care provided kids in foster care is well, you wouldn't call it cutting edge.

In short, rather than a buoyant, brilliant child, Hilary might have been just a statistic -- another infant who died in an institution. Some nurses, maybe a caseworker, would have blessed her with their tears, but she'd be long forgotten now.



It might have played out as a slightly different tragedy. The legislation before Bush could encourage abortions. If it had been law when Hilary was conceived, she might not have made it past a few cells before her potential was snuffed. Nobody would have noticed. Nobody would have cared.

Especially the Florida Legislature. The senators and House members are far too busy pigging out on lobbyists' lobster and steaks to notice the plight of children.

SB138/HB141 is the brainchild (although it proves that in Tallahassee brains are in short supply) of state Sen. Walter "Skip" Campbell, D-Tamarac. From a few of his colleagues, lobbyists and others, I'm told that he is no friend of "women's issues." One lawyer called him the ultimate male chauvinist pig. In the Capitol nowadays, that's probably a badge of honor.

Campbell is also riding the crest of the anti-lawyer sentiment in the Legislature. The solons want to gut the influence of the Florida Bar on judicial appointments, and they want to stack the courts with judges who will bless the wholesale corruption and loony right-wing stampede of the Legislature. SB138/HB141 would shift much of the private adoption business from specialized lawyers to nonprofit agencies. The fact that the agencies often charge many times more than the lawyers, which would greatly deter many would-be parents from adopting, doesn't seem to bother the legislators.

I first heard about the bill in a phone call from Jeanne Tate. She's an adoption lawyer in Hyde Park. She was our family's adoption lawyer. Finding parents for kids and vice versa is her full-time passion. It also makes her a good living, I'm sure. But she could get a lot richer chasing ambulances. "This has never been about money," she says.

The key provision in SB138/HB141 gives birth fathers -- even if they sired the child during rape -- preference over all other involved parties, especially the child and the adoptive parents. Rather than place the burden on a father to come forward and claim his child, the mothers and prospective adoptive parents would have to conduct a search and place ads in newspapers in any city where the mother had lived or traveled to in the year before giving birth.

The father would have two years to disrupt an adoption. He could claim virtually any grounds to justify his tardy appearance -- even the old "my girlfriend didn't tell me." Grandparents and other relatives, even family friends of the father as well as the mother in some circumstances, could claim "rights" that trump those of the child and the adoptive parents.

Here's the sort of scenario that could develop. A couple wants to adopt. They pay for a pregnant woman's maternity care. They raise a baby for two years -- perhaps as with the Sedgemans, paying horrendous medical bills. Then the father pops up, claims his child. If the adoptive parents fight and win, they get to keep the child, but they pay their own legal fees. If they lose, they forfeit all the money they've spent on the child, plus they pay the father's legal fees as well as their own. In extreme cases, birth parents could use the law to extort money from adoptive moms and dads.

That's justice?

There are other insidious provisions in the law. Birth parents, even if they have agreed to relinquish a child, could revoke their decision at a multitude of junctures.

Tate feels strongly -- and the logic is impeccable -- that the law will cause a spike in abortions. Since a birth father must be tracked down for his consent before an adoption, the number of families interested in adoption will evaporate. Or, they'll go to other states. Many pregnant women in Florida will have no options -- other than abortion.

Only private adoptions would be affected by the law, not those where the child is a ward of the Department of Children and Family Services (DCF). Aside from the disparity of that, it's a trap. The law might be justified as encouraging would-be parents to go to DCF, which is suffering from an avalanche of children, due in part to other misbegotten legislation-without-thought-or-funding.

But I'd fear that hundreds or thousands of children who would have been spared DCF foster care will end up there. The mothers who can't find adoptive parents because of SB138/HB141 will simply dump the children on the state's doorstep.

The justification that Sen. Campbell and his allies have come up with is that the law addresses adoptions disrupted after a birth father shows up -- the "Baby Sam" and "Baby Emily" type cases that grab headlines. Campbell has touted his law, giving adoptive parents assurance that their child won't be taken by a birth parent. This is a real threat with minority and special needs babies.

Tate comments: "There are about 8,000 adoptions each year in Florida. Can the legislature name eight, one-tenth of one percent, that were disrupted for those reasons last year? Can they point to five out of 80,000 over the last ten years? I don't think so."

An aide to Campbell who asked not to be named, called Tate's argument "disingenuous." There are many cases of adoption disruption that don't get into the news, the aide asserted.

Even if so, and I don't believe it, the big question is still unanswered. How are adoptive parents going to get "assurance" from a law that leaves a baby's status entirely in limbo for two years? Why would prospective moms and dads make the emotional and financial investment in a child knowing that for months or years the birth father could lay claim to the kid?

The answer is simple. Many children won't be adopted. If the Legislature really had wanted to help -- as the courts have urged -- it could have tightened the existing law, putting the burden on the man to quickly come forward and show proof of fatherhood.

That, of course, would have been compassionate, simple and effective, words that are anathema in Tallahassee.

Bush could sign the bill into law any day. You can e-mail him at jeb@jeb.org or fax him at 850-487-0801.

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