

January 2, 2014

Ms. Megan E. Farquhar, Chair
CSA-NS Family Law Section
C/O Legal Services Division
Department of Justice (Nova Scotia)
5151 Terminal Road, 4th Floor
Halifax, Nova Scotia
B3J 2L6

Dear Ms. Farquhar,

As the result of a recent adoption application, we are revising our policy and practices with respect to private adoptions from other jurisdictions, most often Nunavut.

In the past, the practice had been to accept that private out of province adoptions did not need to meet the requirements of Section 70 (1) as long as the placement occurred in another jurisdiction, according to its requirements. This interpretation was recently questioned by the Court and, as a result, we have reviewed our practice and determined that it needs to be revised to ensure that it is aligned with the restrictions on placement outlined in Section 70 (1) of the *Children and Family Services Act*:

70(1) A child shall not be placed or received for the purpose of adoption except where

- (a) the child is a child in the care of a child placing agency;
- (b) the child is placed by the father or mother with a relative of the father or mother; or
- (c) one of the applicants for adoption is the father or mother of the child.

Private interprovincial adoptions do not meet any of these criteria. There is, however, a remedy in the Act, Section 70A (1), but it does mean that children will need to reside with their prospective adoptive parents for 24 consecutive months and meet the other criteria outlined in this section before the *Notice of Proposed Adoption* can be filed. Section 70A (1) reads as follows:

70A (1) A person who has had the physical care and control of a child for more than 24 consecutive months may, during the further continuance of that period of physical care and control, commence proceedings for adoption within the meaning of clause (a) of subsection (2) of Section 67 if, and only if,

- (a) all necessary consents for adoption have been obtained or have been ordered dispensed with pursuant to Section 75;
- (b) a parent whose consent to the adoption has been obtained has, before, giving the consent, received professional counselling by a person or a member of a class of persons approved for that purpose by the Minister;

Mrs. Megan E. Farquhar
January 2, 2014
Page 2

- (c) a social and medical history respecting the biological father and the biological mother has been prepared, if the biological father and the biological mother, or either of them, are known and available to a person or a member of a class of persons approved for that purpose by the Minister; and
- (d) the person has been approved by a child-placing agency for the adoption of the child.

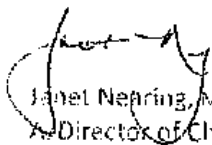
We will be working on a process to ensure that staff in other jurisdictions are able to assist in meeting the requirements of subsections (b) and (c).

We are notifying our adoption staff, private practitioners and the authorities in Nunavut of our change in practice but are requesting your assistance in conveying the change to members of the Canadian Bar Association, Family Law Section.

If you or your members have further questions, please direct them to me or to Paula Murrin, Acting Manager of Adoption Services

Thank you for your attention to this matter.

Sincerely yours,



Janet Nearing, MSW, RSW
Director of Child Welfare

/ll

c: Ms. Paula Murrin, BSW, RSW