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Use of Advertising and Facilitators in Adoptive Placements: Fact Sheet and Recommendations

Use of Advertisement:

Georgia allows the use of public advertising by agencies only; individuals including birth parents and prospective adoptive parents may exchange information by private means only, such as letters or telephone calls.¹

Questions and Answers:

- (1) Question: Under Georgia law, can I send an email out to all of my friends and family and co-workers telling them that I am interested in adoption?

Answer: Yes, an email sent out to friends, acquaintances and family is permitted under Georgia law.

- (2) Question: How about under Facebook or other social media? Is it OK to let my friends know through those means that I am interested in adoption?

Answer: While the Georgia statute does not directly discuss social media, it is the general understanding of those who are practicing in this field that posts on Facebook to a community of friends and family is within the permitted bounds of private communications.

- (3) Question: Can my facilitator advertise for me?

Answer: No, please see discussion below.

- (4) Question: Can my agency help me put together a dear birth mother letter and advertise on behalf of me and my spouse that we are interested in adopting?

Answer: Yes. An agency is permitted under Georgia law to advertise on behalf of Prospective Adoptive Parents.

¹ **O.C.G.A. § 19-8-24(a)** "It shall be unlawful for any person, organization, corporation, hospital, or association that has not been established as a child-placing agency by the department to advertise, whether in a periodical, by television, radio, or any other public medium or private means, that the person, organization, corporation, hospital, or association will adopt children or will arrange for children to be placed for adoption. **O.C.G.A. § 19-8-24(d)** Individuals seeking to adopt a child or to place their child for adoption may communicate by "private means, which include only written letters or oral statements."



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Use of Intermediaries/Facilitators:

An intermediary or adoption facilitator is any person or entity that is not an approved or licensed agency that acts on behalf of any birth parent or prospective adoptive parent in connection with the placement of a child for adoption.² While adoption agencies and adoption attorneys are licensed and must meet strict regulations and standards in order to practice in Georgia, facilitators are unlicensed and their conduct is unregulated. While some facilitators may be knowledgeable, many of them do not have the backgrounds to assure compliance with Georgia and other state's laws.

Georgia law regulates the use of facilitators and intermediaries.³ Specifically, Georgia does not allow facilitators or intermediaries to advertise or to hold out enticement of any kind, on behalf of adoptive parents to birth parents, to encourage birth parents to surrender their children for adoption.⁴ Additionally, facilitators and intermediaries also cannot aid birth parents in surrendering their children for adoption in hopes of financial gain.⁵

Questions and Answers:

- (1) Question: Under Georgia law, can I use a facilitator to help me to advertise to birth parents?
Answer: No, while a facilitator may help prospective adoptive parents in putting together a birth mother packet, they cannot advertise on behalf of prospective adoptive parents.

- (2) Question: Under Georgia law, can a facilitator finalize an adoption?
Answer: No, only an attorney can finalize an adoption. Please visit GACAL website: www.gacal.org for a list of experienced adoption attorneys.

- (3) Question: Under Georgia law, what can a facilitator do to help me in the adoption process?
Answer: Although there is no statutory guidance on what facilitators can do, if you choose to use one they should at least do the following for you and your family:
 - (a) Fully disclose to adoptive parents the facilitator's experience and lay out exactly what he/she will be able to do under GA law.
 - (b) Provide written information about the adoption process to all parties
 - (c) Provide to the adopting parents any available background information about the child's birth parents
 - (d) Make sure that the adopting parents have completed home studies that have been approved

² *Child Welfare Information Gateway: Use of Advertising and Facilitators in Adoptive Placements: Summary of State Laws* (available at http://www.childwelfare.gov/systemwide/laws_policies/statutes/advertising.cfm)

³ Georgia is among 41 other states, the District of Columbia, and American Samoa, that have laws which regulate to ensure that no intermediary or member of the birth family profits from the placement of a child.

⁴ O.C.G.A. § 19-8-24(a)(2) "It shall be unlawful for any person, organization, corporation, hospital, or association of any kind that has not been established as a child-placing agency by the department to directly or indirectly hold out inducements, including any financial assistance except medical expenses, to parents to part with their children."

⁵ O.C.G.A. § 19-8-24(b) "It shall be unlawful for any person to sell, offer to sell, or conspire with another to sell or offer to sell, a child for money or anything of value, except as otherwise provided in this chapter."



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Additional Code sections to consider:

O.C.G.A. Section 49-5-12 (q) No person, official, agency, hospital, maternity home, or institution, public or private, in this state shall receive or accept a child under 17 years of age for placement or adoption or place such a child, either temporarily or permanently, in a home other than the home of the child's relatives without having been *licensed or commissioned by the department*. Notwithstanding the provisions of Code Section 49-5-12.1, violation of this subsection shall be punishable by a fine of not less than \$100.00 nor exceeding \$500.00 for each offense. Nothing in this Code section shall be construed to prohibit a properly licensed attorney at law from providing necessary legal services and counsel to parties engaged in or contemplating adoption proceedings. Nothing in this Code section shall be construed to prohibit an individual seeking to:

- (1) Adopt a child or children from receiving or accepting a child or children in the individual's home in anticipation of filing a petition for adoption under Article 1 of Chapter 8 of Title 19; or
- (2) Have that individual's child or children placed for adoption from placing that individual's child or children in the home of an individual who is not related to the child or children in anticipation of the individual's initiation of adoption proceedings pursuant to Article 1 of Chapter 8 of Title 19.

Section 49-5-15 No person shall bring or send into the state any child for the purpose of placing him or procuring his adoption without first filing notice with the department. He shall file with the department a bond payable to the state for each child he intends to send or bring, approved by the department, in the penal sum of \$1,000.00, conditioned that he will not send or bring into the state any child who is incorrigible or unsound in mind or body; that he will remove any such child who becomes a public charge or who, in the opinion of the department, becomes a menace to the community prior to his adoption or becoming of legal age; and that the person with whom the child is placed shall be responsible for his proper care and training. Before any child shall be brought or sent into the state for the purpose of placing him in a foster home, the person so bringing or sending such child shall first notify the department of his intention and shall obtain from the department a certificate stating that such home is, in the opinion of the department, a suitable home for the child. Such notification shall state the name, age, and personal description of the child; the name and address of the person with whom the child is to be placed; and such other information as may be required by the department. The person bringing or sending such child into the state shall report at least once each year and at such other times as the department shall direct as to the location and well-being of the child so long as such child shall remain within the state and until he shall have reached the age of 18 or shall have been legally adopted.