

The State of South Carolina



Office of the Attorney General

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April 23, 1986

Kathryn N. Queen, ACSW
ICPC Deputy Administrator
for Adoptions
SC Interstate Compact on the
Placement of Children
Suite 225, 1001 Harden Street
Columbia, SC 29205

Dear Ms. Queen:

In your letter of March 19, 1986, you inquire as to whether the birth mother or the attorney making the placement is the proper party to sign on the Interstate Compact on the Placement of Children (ICPC) Form 100A as financially responsible when the placement of the child is through an independent adoptive placement arranged by a South Carolina attorney into another state. You indicate that typically the attorney signs as financially responsible since the birth mother has signed a voluntary surrender of the child and consented to the child's adoption. The purpose of this signature is to identify the person to whom the child should be returned if the adoption disrupts prior to finalization.

The ICPC is found at §20-7-1980, et seq., South Carolina Code of Laws, 1976, as amended. Subsection 2(b) of the ICPC defines "sending agency" as:

...a party state, officer or employee thereof, a subdivision of a party state, or officer or employee thereof, a court of a party state, a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state. (Emphasis added)

Under this definition, the attorney who arranges for an out-of-state adoption, rather than the birth mother, is the "sending agency."

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Subsection 5 of the ICPC states that "[t]he sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement," but this financial responsibility may be discharged by the receiving agency.

When these two provisions, subsections 2 and 5, are read together, it seems clear that the attorney who is responsible for sending the child into the receiving state is the sending agency and is required to assume financial responsibility for support and maintenance of the child and, therefore, would be the appropriate party to sign ICPC Form 100A and assume responsibility if the adoption should disrupt. Under the provisions of the ICPC, the birth mother would have financial responsibility only if she acted on her own as the sending agency without the assistance of an attorney.

In conclusion then, it is our opinion that the attorney, not the birth mother, is the person who should sign the ICPC Form 100A as financially responsible if the adoption should disrupt.

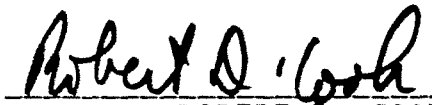
Sincerely,



B. J. Willoughby
Assistant Attorney General

BJW/rho

REVIEWED AND APPROVED:



ROBERT D. COOK
Executive Assistant for Opinions