

RE-HOMING: THE UNDERGROUND MARKET FOR ADOPTED CHILDREN AND HOW CURRENT LAWS FAIL TO PROTECT THE INNOCENT

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I. INTRODUCTION

The current state of adoption regulations and statutes fails to adequately protect innocent children from the dangerous practice of re-homing. Re-homing in the adoption context refers to transferring unwanted adopted children to a new home without any legal or regulatory involvement or supervision.¹ This underground practice is becoming a major issue in the United States, yet only a few states have expressly taken steps to outlaw re-homing. This Comment will first examine re-homing as it exists in the adoption context. It will then consider the laws that currently exist and explain how they fail to cover re-homing. Finally, the Comment will consider suggestions to reform the adoption process and the regulations in order to better protect innocent children from this underground market.

II. THE PRACTICE OF RE-HOMING IN THE ADOPTION CONTEXT

Re-homing is a term normally associated with the transfer of an unwanted household pet.² Owners place an advertisement on the Internet, and a private transfer occurs between the old and new owner.³ However, this practice has become prevalent with

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1. Leslie A. Gordon, *Far From Home: States Begin to Crack Down on Parents 'Re-Homing' Their Adopted Kids*, 100 A.B.A.J. 17, 17 (Dec. 2014).

2. *Id.*

3. *Id.*

unwanted adopted children.⁴ Termed “private re-homing,” a child is taken from a home that they were legally adopted into and transferred to another home.⁵ This transaction can occur through something as simple as a power of attorney reassigning custody and often does not take place with any attorney or child welfare authority supervision.⁶

The practice of re-homing came into the national spotlight after a Reuters Investigates exposé in 2013 entitled “The Child Exchange.”⁷ This exposé investigated stories of those who had been involved with the re-homing practice.⁸ The results were shocking and revealed that in many situations these children were placed into extremely dangerous, physically and emotionally abusive situations.⁹ Also shocking was the little amount of research that adoptive parents performed before willingly handing over their children.¹⁰ The exposé opens with a case of one woman who gave her adopted daughter to a couple she had never met simply by signing a notarized paper stating that the new couple would be the child’s guardians.¹¹ The mother had not done much research into the couple’s background and merely relied on the woman’s statement that she was “awesome with kids.”¹² Reuters later uncovered that child welfare authorities had removed the couple’s biological children, the couple had severe psychiatric problems, and the couple had forged an official document allegedly drafted by a social worker to corroborate their parenting skills.¹³ When the mother tried to contact the couple to check on the child, she found that she could no longer reach them and that the child never checked in to the school she was to attend.¹⁴ The child also later revealed that she was sexually abused in the home.¹⁵ The

4. *Id.*

5. Megan Twohey, *The Child Exchange: Inside America’s Underground Market for Adopted Children*, REUTERS INVESTIGATES (Sept. 9, 2013), <http://reuters.com/investigates/adoption/#article/part1>.

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

exposé explored stories from this underground network of parents who re-homed children with no oversight and the terrible situations into which these children were placed.¹⁶

The Internet has allowed this practice to flourish and has become a place for parents to turn when they later regret the decision to adopt a child. Message boards created on sites like Yahoo! and Facebook allow parents to post advertisements for these children.¹⁷ It also allows those looking to adopt children to avoid the high costs often involved with formal adoption.¹⁸ The Reuters exposé gathered approximately 265 postings from the Yahoo! website and arranged them into a chart, where each individual posting was published exactly as it was written on the message board.¹⁹ Postings ranged from those who feared for their other children's safety to those who simply did not want the child anymore.²⁰ Though major websites have since shut down the groups that Reuters named exclusively,²¹ there is no possible way to locate and delete every re-homing message board in the far corners of the Internet.

Re-homing is extremely common among children adopted from foreign countries. According to the Reuters investigation, an analysis of over 5000 posts in a Yahoo! message board showed that a child was advertised for re-homing at least once a week.²² These children varied in age, but most were from international adoptions.²³ Though there are stricter adoption policies and procedures in place for those who adopt within the United States, there is less training for those who adopt from overseas.²⁴ Whereas adoptions from foster-care systems in the United States require

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.* (stating that at least seventy percent of the children advertised on the Yahoo! message board "Adopting-From-Disruption" were foreign).

24. *Compare id.* (describing safeguards like the Interstate Compact on the Placement of Children and training that many interstate adoptive parents receive), *with Hague vs Non-Hague Adoption Process*, U.S. DEP'T STATE, http://travel.state.gov/content/adoptionsa_broad/en/hague-convention/hague-vs-non-hague-adoption-process.html (last visited Feb. 17, 2015) (showing that international adoptions—especially those from non-Hague Convention countries—have limited safeguards regarding the suitability of the parents).

thirty hours of training, only ten hours are required when adopting from countries belonging to the Hague Convention on Intercountry Adoption (“Hague Convention”).²⁵ Countries that are a party to the Hague Convention pledge to take measures to ensure inter-country adoptions are in the best interest of the child and to prevent the abduction, sale, or traffic of children.²⁶ Countries that are not a party to this agreement do not require any training.²⁷ These foreign-born children are more likely to have physical, emotional, or behavioral problems that are not disclosed to the adoptive parents.²⁸ The lack of preparation for many parents who adopt children from foreign countries sets these adoptions up for failure. There are also limited options for post-adoption help, leading many to choose the “attractive” re-homing option.

The main issue with re-homing is that these adoptions are not legal and occur without any oversight. Unlike legal adoption, which involves interviews and vetting of prospective parents, most of the re-homing transfers merely involve a power of attorney²⁹ and declaring someone a guardian for the child.³⁰ This can be done without any inquiry into the prospective parents’ backgrounds.³¹ As with several of the stories Reuters examined, there are various dangers involved with people who can readily access the Internet and these message boards.³² Another case study examined a child traded to a woman who was convicted of child neglect and a man who was convicted of trading child

25. *Hague vs Non-Hague Adoption Process*, *supra* note 24.

26. David M. Smolin, *Child Laundering as Exploitation: Applying Anti-Trafficking Norms to Intercountry Adoption Under the Coming Hague Regime*, 32 VT. L. REV. 1, 1 (2007).

27. *Hague vs Non-Hague Adoption Process*, *supra* note 24.

28. CHILDREN’S BUREAU, PROVIDING BACKGROUND INFORMATION TO ADOPTIVE PARENTS 5 (2012), https://www.childwelfare.gov/pubPDFs/f_backgroundbulletin.pdf (describing a number of factors which often make full medical disclosure impossible during international adoptions); Twohey, *supra* note 5.

29. *See generally Adoptions Guardianships & Powers of Attorney*, LEGAL AID SOC’Y HAW. (July 2012), <http://www.lawhelp.org/files/EAD80A2B-BF27-AE00-DEE5-0D4ED48A9D0F/attachments/AA001714-6E75-4D58-9A0C-BFCE4E7D2B1E/f51.-adoption-guardianship-p oa.pdf> (explaining that a power of attorney is a notarized document signed by the legal parents of a child that authorizes another person to act on the parents’ behalf in caring for the child).

30. Twohey, *supra* note 5.

31. *Id.*

32. *Id.*

pornography.³³ The transaction occurred the same day that the adoptive mother was contacted about her posting on a re-homing group message board; she knew little about the individuals to whom she willingly handed over the child.³⁴ Without any oversight, this process allows children to slip through the cracks and be placed in threatening situations.

Parents turn to this underground market for a variety of reasons. In some situations, there has been a failure to bond. Reactive Attachment Disorder describes a situation in which a child fails to establish an attachment with his caregivers.³⁵ There are different explanations for why this might develop, but some believe that it arises from experiencing an unstable or uncaring environment.³⁶ Children who are adopted and separated from their caregivers at a young age are at a greater risk for this disorder and thus might fail to effectively assimilate into their adoptive family.³⁷ Another possibility for turning to re-homing is that the adoption has not worked out the way the parents envisioned.³⁸ One post on a re-homing message board stated that the child needed to be re-homed because she was not “able to integrate into” the family.³⁹ It is also fairly normal for children adopted from overseas to have undisclosed physical or mental problems.⁴⁰ Overall, the children are sent to a new home because the adoptive parents have determined the child is disruptive or unsuited to continue living with the family.⁴¹ These parents are often tired, overwhelmed, and looking for anyone who is willing to

33. *Id.*

34. *Id.*

35. *Reactive Attachment Disorder, Definition*, MAYO CLINIC (July 10, 2014), <http://www.mayoclinic.org/diseases-conditions/reactive-attachment-disorder/basics/definition/con-20032126>.

36. *See, e.g., Reactive Attachment Disorder, Causes*, MAYO CLINIC (July 10, 2014), <http://www.mayoclinic.org/diseases-conditions/reactive-attachment-disorder/basics/causes/con-20032126>; *Reactive Attachment Disorder*, FAMILIES BY DESIGN, <http://www.attachment.org/reactive-attachment-disorder> (last visited Feb. 20, 2016).

37. *See Reactive Attachment Disorder, supra* note 36.

38. Twohey, *supra* note 5 (displaying an interactive chart with different postings on the Yahoo! message board).

39. *Id.*

40. *Id.*

41. *Re: The Disruption, Dissolution and Illegal Transfer of Adoptive Children*, ASS’N ADMINS. INTERSTATE COMPACT ON PLACEMENT CHILD., <http://www.reuters.com/investigates/adoption/#article/part1> (last visited Feb. 20, 2016) (available under hyperlink stating “the official wrote”).

take the child.⁴² It is also unlikely that these adoptive parents have the resources or the time to fully perform background checks on prospective guardians.⁴³ The parents feel there is nothing else for them to do, as agencies are often not required to provide post-adoption support to families.⁴⁴ These factors, combined, lead to unfit people receiving children and expose these innocent children to bad situations.

III. THE CURRENT STATE OF ADOPTION LAWS AND REGULATIONS RELATING TO RE-HOMING AND WHY THEY FAIL

The current adoption statutes and regulations in place allow this practice to exist underground without any repercussions or legal action against those that participate. This is evidenced particularly through the lack of case law discussing people that have given their adopted children away, even though there are numerous known cases of re-homing. Additionally, the statutes that do cover adoption practices leave loopholes for re-homing to continue without any route to legally combat the problem.

A. Adoption Statutes

The majority of states do not have any legislation specifically pertaining to the issue of re-homing.⁴⁵ The existing adoption statutes in many states relate only to procedures for adoptions.⁴⁶ Most existing legislation leaves large gaps that allow re-homing to continue without any repercussions for those involved.

North Carolina's adoption statute provides a good representation for many of the adoption statutes in the United States.⁴⁷ Specifically relevant to the issue of re-homing is North Carolina General Statute § 48-3-702.⁴⁸ This statute provides that a relinquishment of a child must conform to the requirements in

42. Twohey, *supra* note 5 (“Scrutinizing those who want children is often left to parents who are eager to get rid of the kids.”).

43. Gordon, *supra* note 1, at 18.

44. *Id.*

45. Twohey, *supra* note 5.

46. *Id.*

47. *See generally* N.C. GEN. STAT. § 48 (2015).

48. *Id.* § 48-3-702 (2014).

the statute and must be signed under oath before an individual authorized to administer oaths.⁴⁹ Under this statute, an individual could obtain a power of attorney and relinquish guardianship to another individual, which is exactly how some people accomplish re-homing adopted children.⁵⁰ A power of attorney often allows the new guardian to obtain government benefits, enroll the child in school, and seek medical care for the child.⁵¹ This statute allows re-homing to exist as the new guardians can still obtain basic care for the child.⁵²

North Carolina also has subsections under its adoption statutes related to allowed practices. Under the allowed activities in placement of children, a guardian is free to solicit potential adoptive parents for children in need of adoption, and an individual may seek a child to adopt as long as the individual has a completed pre-placement assessment stating that the individual is fit to be an adoptive parent.⁵³ The penalty for not following this procedure is a Class 1 misdemeanor.⁵⁴ However, because the adoption can take place under these North Carolina statutes with a power of attorney letter and perhaps a forged pre-placement assessment—as was the case in the Reuters investigation⁵⁵—there is not much oversight or ability to catch those violating this law.⁵⁶

Additionally, North Carolina prohibits a person from paying, offering to pay, or receiving payment, whether monetary or anything of value, for any part of the adoption placement.⁵⁷ However, this fails to address what occurs during re-homing. In most situations of re-homing, there are no monetary exchanges.⁵⁸ The parents are mostly relieved to rid themselves of what they view as a problem, and the people who receive the children do not expect payment. The existing statutes do not address the actual process and thus create loopholes that do not limit the practice.

49. *Id.*

50. Twohey, *supra* note 5.

51. *Id.*; see also *Adoptions Guardianships & Powers of Attorney*, *supra* note 29.

52. Twohey, *supra* note 5.

53. See N.C. GEN. STAT. §48-3-201 (2014) (explaining who may place minors for adoption); *Id.* § 48-10-101 (stating prohibited practices in connection with adoption).

54. *Id.* § 48-10-101.

55. Twohey, *supra* note 5.

56. *Id.*

57. N.C. GEN. STAT. § 48-10-102.

58. Twohey, *supra* note 5.

North Carolina's statutes are comparable to other states' laws regarding adoption. Virginia allows the child's parent or legal guardian to place the child for adoption⁵⁹ and similarly requires the parent's consent in writing acknowledged before an authorized officer.⁶⁰ Virginia also does not require an investigation or report in adoptions where parental consent has been properly executed.⁶¹ In South Carolina, a person is not prohibited from advertising that one wishes to adopt a child if one has a pre-placement home investigation.⁶² This again raises questions about whether there is any oversight or valid examination of these pre-placement investigations. Because many states fail to address re-homing and have broad adoption statutes, there is no way for legal action to be taken against individuals in the event that they are found re-homing adopted children.

B. Regulations

Regulation of adoption has traditionally been left to the states.⁶³ However, the federal government implemented the Interstate Compact on the Placement of Children ("ICPC"), which has been enacted in all fifty states and the District of Columbia.⁶⁴ The ICPC has an impact on the adoption of children and should, in theory, affect and regulate re-homing.⁶⁵ The ICPC is a contract among the fifty states and the U.S. territories that works to ensure children placed or adopted across state lines receive adequate care and services.⁶⁶ The ICPC also establishes procedures for the placement of children across states lines and sets requirements and responsibilities for the agencies and

59. VA. CODE ANN. § 63.2-1200 (2014).

60. *Id.* § 63.2-1202.

61. *Id.* § 63.2-1238.

62. S.C. CODE ANN. § 63-9-70(b) (2014).

63. See Kurtis A. Kemper, Annotation, *Construction and Application of Interstate Compact on the Placement of Child*, 5 A.L.R. 6th 193, 208 (2005) (suggesting that adoptions across state lines were problematic because jurisdictional issues prevented states from protecting children where their state-specific adoption laws did not reach).

64. *Id.*

65. See *id.* at 208–09 (expanding adoption protections to include interstate adoptions should necessarily decrease re-homing of children without legal or regulatory involvement).

66. ICPC FAQ, ASS'N ADMINS. INTERSTATE COMPACT ON PLACEMENT OF CHILD., <http://www.aphsa.org/content/AAICPC/en/resources/ICPCFAQ.html> (last visited Feb. 20, 2016).

individuals involved in this process.⁶⁷ These requirements ensure placements are safe for the child prior to approval and aim to guarantee that the agency placing the child remains legally and financially responsible for the child after placement.⁶⁸ Because state regulations and statutes end at the state's border, the ICPC's purpose is to protect children when the adoption takes place between states.⁶⁹

This regulation has good intentions; however, it fails in several ways when applied in the re-homing context. The ICPC only affects adoptions that take place across state lines, failing to cover those that occur within the same state.⁷⁰ Thus, the assessments and inquiries into the adoptive parents' backgrounds are not regulated when the adoption takes place in the same state and are left to the states' own policies.⁷¹ Also, the ICPC does not apply when the placement occurs with a foreign state that has not adopted the ICPC.⁷² For example, in *Kessel v. Leavitt*, the court ruled the ICPC did not govern adoption proceedings involving a mother from West Virginia who placed her child with a couple in Canada.⁷³ In any case, these re-homing "adoptions" would have to be known in order to actually prosecute the people involved under the ICPC.⁷⁴

The punishments associated with violations are also problematic. The states are required to enact the provisions of the ICPC to participate, but states vary on the punishment in the event of a violation.⁷⁵ The ICPC itself merely conditions that a violation is subject to penalty in either state subject to that state's laws.⁷⁶ Because the ICPC leaves the punishment to the states prosecuting the violation, the violation and punishment could vary between the states and, in some instances, might not be much of a

67. See Kemper, *supra* note 63, at 208–09.

68. *ICPC FAQ*, *supra* note 66.

69. See *id.*

70. *Id.*

71. See *id.*

72. See Kemper, *supra* note 63, at 209.

73. See *Kessel v. Leavitt*, 511 S.E.2d 720, 791 (W. Va. 1998) (illustrating that the ICPC did not govern adoption proceedings in this case because Canada is not a party to the ICPC).

74. See Kemper, *supra* note 63, at 210 (inferring that the need to punish violators of the ICPC indicates that some violators escape detection by either state).

75. See *id.*

76. See, e.g., N.C. GEN. STAT. § 7B-3800 (2014); V.A. CODE ANN. § 63.2-1000 (2014).

deterrent.⁷⁷ The ICPC can require the return of a child to the adoptive parents,⁷⁸ which essentially puts the parents in the same unwanted situation as before and leads the parents to begin the process again.

C. Case Law

Due to the lack of statutes in place to prosecute violators, there is hardly any relevant case law. One case that has specifically addressed re-homing comes from a family court in New York.⁷⁹ The parents of two adopted children from Russia sought to receive an order from the court denying or vacating the Russian adoption order.⁸⁰ The opinion took judicial notice of the issue of re-homing because the judge wanted to be clear that if the rescission of the adoption was denied, the parents could not seek to rid themselves of the children through re-homing.⁸¹ The judge strongly opposed this process, calling it “human trafficking in children,” and used the decision as a first step to control re-homing and the unofficial adoption process.⁸² The court further noted that enacting a local rule would be inadequate and urged the legislature to amend the relevant statutes to prohibit the “unsavory” practice of re-homing.⁸³

The judge made apt conclusions about the process of re-homing. The judge noted that an estimated 200 to 300 children were traded in this manner through the Internet.⁸⁴ He also stated that the practice boils down to parents relieving themselves of the responsibility to care for their children by giving them to strangers whose qualifications are relatively unknown.⁸⁵

The fact that this is the only case addressing re-homing shows how difficult it is to actually combat this issue. The case here did not even punish offenders for re-homing, but rather served as judicial notice of re-homing and its dangers.⁸⁶ The judge

77. See Kemper, *supra* note 63, at 210.

78. *Id.* at 211.

79. *In re Adoption of Child A & Child C*, 997 N.Y.S.2d 312 (N.Y. Sur. Ct. 2014).

80. *Id.* at 313.

81. *Id.* at 314.

82. *Id.*

83. *Id.*

84. *Id.* at 313.

85. *Id.* at 314.

86. *Id.*

preemptively commanded the parents not to turn to the practice of re-homing in the event that their attempts to legally dissolve the adoption did not succeed.⁸⁷ If the practice of re-homing is to be addressed and stopped, there must be more calls to action like this one and concrete ways to pursue violators in court.

IV. HOW THE REGULATIONS AND LAWS CAN BE IMPROVED TO ADDRESS RE-HOMING AND PROTECT CHILDREN

The current laws and regulations clearly fail to protect the children that experience re-homing. As revealed through the Reuters investigation, children are subject to physical and emotional abuse and a variety of other dangers.⁸⁸ There are several steps that should be considered and implemented in order to combat this issue and make adoption safer for those children who cannot protect themselves in this country.

A. State Intervention

The first step is to strengthen statutes. Re-homing is a serious issue in this country, and it should be illegal for parents to remove the children they adopted into their homes without any legal oversight or agency involvement. Currently, only a few states have actually passed any legislation to specifically address and outlaw this practice.⁸⁹

Colorado is one state that has moved to prevent re-homing. Colorado law completely prohibits advertising to adopt a child or place a child for adoption in any way, including the Internet.⁹⁰ The law does allow children's service agencies and licensed adoption attorneys admitted to the Colorado bar to place these types of advertisements.⁹¹ This law effectively allows legitimate adoption agencies to continue operating but prevents the frequent practice of advertising re-homing in online forums. Violation of the statute is a Class 6 felony.⁹² Florida also has a similar statute in place that specifically makes it unlawful for a

87. *Id.*

88. Twohey, *supra* note 5.

89. *Id.*; *see, e.g.*, Children's Code, COLO. REV. STAT. § 19-5-213.5(1)(a) (2015).

90. Children's Code, COLO. REV. STAT. § 19-5-213.5(1)(a) (2015).

91. *Id.* § 19-5-213.5(3)(a).

92. *Id.* § 19-5-213.5(4).

person other than an adoption agency or attorney to advertise or offer a child for adoption.⁹³ However, a violation is only a second-degree misdemeanor,⁹⁴ which is a rather lenient punishment for such a crime.

Wisconsin passed an act to target and combat re-homing, while still allowing parents to transfer custody if necessary. Under the law, parents can transfer care and custody of a child to a non-relative for up to one year.⁹⁵ For any length of time over that one year, the parents must petition the court to transfer the powers to a non-relative.⁹⁶ The court then holds a hearing to determine if approving the petition is within the best interest of the child.⁹⁷ A failure to follow this statute results in criminal penalties, including up to a \$10,000 fine and nine months in prison.⁹⁸

Louisiana has also taken direct steps to prohibit re-homing a child. Under this statute, re-homing is defined as completing or facilitating any transaction by a parent who intends to relieve oneself of permanent parental responsibility by placing the child with a non-relative without court approval.⁹⁹ By expressly defining re-homing, the statute directly combats the actual practice and gives plenty of notice as to what behavior constitutes re-homing.¹⁰⁰ The law also excludes several actions from the coverage of the statute, such as short-term placement, placement by appropriate agencies or attorneys, or children placed in accordance with the ICPC.¹⁰¹ This statute is effective and should be used as an example, as it draws a concrete distinction between what is permitted in adoptions and what is not.¹⁰² A violation of the statute can result in up to a \$5,000 fine and five years in prison.¹⁰³ The five-year prison sentence seems an appropriate deterrent, but the fine should be higher to dissuade people from this practice.

93. FLA. STAT. § 6-63.212(1)(g) (2014).

94. *Id.* § 6-63.212(8).

95. Children's Code, WIS. STAT. § 48.979 (1)(a) (2014).

96. *Id.* § 48.979 (1m)(a).

97. *Id.*

98. *Id.*

99. LA. STAT. ANN. § 14:46.4 (2014).

100. *Id.*

101. *Id.* § 14:46.4(B).

102. *Id.* § 14:46.4(A).

103. *Id.* § 14:46.4(C).

A few states have also recently proposed legislation to make re-homing illegal. Nebraska proposed a bill in January of 2015 that addresses re-homing.¹⁰⁴ The proposed statute defines re-homing as a transaction or any act taken to facilitate such a transaction with the intention of leaving a child and permanently avoiding parental responsibility.¹⁰⁵ The proposed statute still allows parents to place children with a relative, adoption agency, or with another guardian for a short period of time.¹⁰⁶ Maryland has also proposed a similar bill that makes it illegal to re-home a child without the prior approval of a court.¹⁰⁷ The proposed statute makes it a crime to act as an accessory to a re-homing placement.¹⁰⁸ Violators face imprisonment up to five years and a fine up to \$10,000.¹⁰⁹ Virginia suggested a comparable bill to make the practice illegal, but decided to table the bill until its Commission on Youth provided a study reporting findings and recommendations prior to the 2015 General Assembly session.¹¹⁰

These statutes should be implemented across the nation. They expressly make re-homing illegal and provide a way to actually combat the issue and prosecute offenders. The heavy consequences would also help curb the practice. In most states, abandoning your birth child is a crime.¹¹¹ North Carolina specifically states that if an individual willfully abandons a child with the intent of escaping legal obligation for the child, the individual will be punished as a Class 1 felon.¹¹² The situation should not be treated any differently when one abandons an adopted child. Those who re-home an adopted child have the intent of escaping legal obligation for that child without going through any legal routes and effectively abandon that child. There must be deterrents to force people to utilize legal channels if their

104. Legis. B. 302, 104th Leg., 1st Sess. (Neb. 2015).

105. *Id.*

106. *Id.*

107. S.B. 208, 2015 Cong., 435th Gen. Assemb. (Md. 2015).

108. *Id.*

109. *Id.*

110. VA. COMM'N ON YOUTH, UNLAWFUL ADOPTION CHILD, Rep. Doc. 460, Reg. Sess., [http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD4602014/\\$file/RD460.pdf](http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD4602014/$file/RD460.pdf) (last visited Feb. 20, 2016).

111. See, e.g., Michael S. Raum & Jeffrey L. Skaare, *Encouraging Abandonment: The Trend Towards Allowing Parents to Drop Off Unwanted Newborns*, 76 N.D. L. REV. 511, 516–20 (2000) (discussing proposed safe haven exceptions to child abandonment laws).

112. N.C. GEN. STAT. § 14-322.1 (2014).

situation has escalated to a point that it is not feasible to continue raising the child in the home. Making the practice illegal and imposing heavy fines and jail time would be extremely effective.

States are hesitant to make activities illegal and to strictly regulate. There are arguments that re-homing is not the norm¹¹³ and that publicity has made the situation appear worse than it actually is in this country. However, the studies and research that have gone into revealing the process of re-homing uncovered countless stories, and it is likely that there are more cases that go unnoticed and unreported.¹¹⁴ There is no way to put a number on how many of these underground “trades” have taken place. That re-homing exists at all with no way to punish participants shows how seriously this matter needs to be addressed and stopped. The practice must be made illegal to protect children who cannot help themselves.

B. Federal Government Intervention

The federal government should also have more involvement in ending the practice of re-homing. Currently, the federal government has committees in place to combat human trafficking and sex trafficking.¹¹⁵ One such committee involves about fourteen federal departments and agencies that are charged with coordinating government-wide efforts to combat human trafficking.¹¹⁶ This committee meets with several different leaders, and the officials pinpoint areas that could be strengthened and ways to prevent trafficking.¹¹⁷ Re-homing is not considered child trafficking because there is no payment associated and thus is not necessarily considered within these existing federal committees.

113. See, e.g., Julie S. Tye, *Voice of the People*, CHI. TRIB. (Sept. 26, 2013), http://articles.chicagotribune.com/2013-09-26/opinion/ct-vp-0926-voice-letters-20130926_1_adoption-reform-act-the-cradle-prospective-adoptive-parents; Dawn Davenport, “Re-homing” After Adoption Disruptions, NAT’L INFERTILITY & ADOPTION EDUC. ORG. (Oct. 9, 2013), <http://creatingafamily.org/adoption-category/re-homing-after-adoption-disruptions>.

114. See Cheryl Wetzstein, *James Langevin Pushes Legislation to Curb ‘Rehoming’ of Adopted Children*, WASH. TIMES (Aug. 4, 2015), <http://www.washingtontimes.com/news/2015/aug/4/rep-james-langevin-pushes-legislation-to-curb-reho>.

115. *Federal Interagency Collaboration*, OFF. ON TRAFFICKING PERSONS, <http://www.acf.hhs.gov/programs/endtrafficking/about/federal-collaboration> (last visited Feb. 20, 2016).

116. *President’s Interagency Task Force to Monitor and Combat Trafficking in Persons*, U.S. DEP’T STATE, <http://www.state.gov/j/tip/response/usg/index.htm> (last visited Feb. 20, 2016).

117. *Id.*

However, at the core of re-homing is the fact that an individual is trading a human being to another individual. Additionally, some of these situations turn into sexually abusive situations, triggering sexual trafficking concerns.¹¹⁸ There is no limit for how this practice might grow and develop, especially with the ease of Internet transactions. There should be a subcommittee devoted to developing further information to advise lawmakers of the seriousness of this situation. These subcommittees could then better counsel both the federal and state governments on how best to combat the issue and could also effectively take steps to end the practice in the same way they address human trafficking.

The federal government should address this concern because it affects adoptions from other countries. Russia enacted a law that prohibits American couples from adopting Russian children.¹¹⁹ The reasoning included in the law pointed to the alleged inadequate protections of adopted Russian children in the United States and at least nineteen deaths of adopted Russian children since the 1990s.¹²⁰ There was also a highly publicized incident involving a Russian child sent on a one-way flight back to Russia after his adoptive mother decided she could not care for the child and his violent outbursts.¹²¹ As the issue of re-homing becomes more publicized and adopted children remain inadequately protected, other countries are likely to follow suit and implement stricter conditions or outright bans on adoptions to the United States.

Additionally, the ways of tracking adoptions across state lines should be strengthened, potentially through the ICPC. Currently, states that are a party to the ICPC have statutory penalties that are based on the individual states' laws.¹²² This should be updated to include a more uniform disciplinary action among the states. If re-homing is to be fully addressed, there should be a clear statement that the practice will not be tolerated in this country. As the ICPC applies to the fifty states,¹²³ it is a united front among the states. Thus, the ICPC should attempt to

118. Twohey, *supra* note 5.

119. *Russia's Putin Signs Anti-U.S. Adoption Bill*, CNN (Dec. 28, 2012, 10:03 PM), <http://www.cnn.com/2012/12/28/world/europe/russia-us-adoptions>.

120. *Id.*

121. *Id.*

122. Kemper, *supra* note 63, at 210.

123. *Id.* at 208.

incorporate some way of determining and tracking adoptions across state lines. If there is more oversight and ability to follow adoptions after they are completed to ensure that the children are cared for in welcoming environments, the process of re-homing might dwindle.

C. Adoption Practice Reforms

Adoption policies should also be reformed. While this is a big task, the state of adoptions and adoption agencies leaves much to be desired. There should be additional screening of adoption agencies themselves to ensure the agencies and their agents meet certain requirements and perform the necessary background checks of prospective guardians. There should also be more in-depth screening processes for those who attempt to become adoptive parents. Policies should ensure that adoptive parents are fully aware of all the issues that might arise with a child, especially in foreign adoption cases. As seen in the Reuters investigation, many adopted children arrived with undisclosed medical or physical issues, leading to the adoptive parents feeling as though they could not handle the child.¹²⁴ If the parents are fully warned of these possibilities and mentally prepared, there might be less risk of the parents later turning to re-homing.

Similarly, there should be more resources for adoptive parents. Often, once an adoption is complete, parents and the adopted children are left alone. Only some states currently have extensive post-adoption programs.¹²⁵ Connecticut provides: a family mentor, support groups, and behavioral management counseling, and also trains mental health professionals in post-adoption issues in order to better serve adoptive families.¹²⁶ Tennessee also has a specific statute for similar post-adoption services, most importantly including crisis intervention and immediate assessment and treatment in volatile situations.¹²⁷ Though most states have some sort of limited post-adoption

124. Twohey, *supra* note 5.

125. See *Assessing the Field of Post-Adoption Services: Family Needs, Program Models, and Evaluation Issues: Case Study*, U.S. DEP'T HEALTH & HUM. SERV., [http://aspe.hhs.gov/hsp/post-adoption01/case-study/chapt6.htm#\(1\)](http://aspe.hhs.gov/hsp/post-adoption01/case-study/chapt6.htm#(1)) (last visited May 1, 2016) [hereinafter *Assessing the Field*].

126. CONN. GEN. STAT. § 17a-121a (2006).

127. TENN. CODE ANN. § 36-1-143 (2014).

services, the services are not consistently provided to all adoptive families and do not necessarily include crisis intervention or respite.¹²⁸ In order for efforts to end re-homing to be effective, these types of services need to be available to every adoptive parent. These services could help overwhelmed parents feel that they are not alone and realize that there are other resources to utilize rather than re-homing.

This issue affects the whole country, not merely the states that have already taken steps to outlaw the practice. In 2014, the Senate Subcommittee on Children and Families, led by chairwoman Kay Hagan, held a hearing directly on the issue of re-homing.¹²⁹ This hearing featured experts on re-homing who discussed the associated horrors with re-homing.¹³⁰ The experts called for Congress to restrict online advertisements and require court supervision for all transfers of child custody.¹³¹ While this is a step in making lawmakers aware of the issue, it is not enough to merely discuss the practice and its dangers. This serious issue must be addressed squarely in order for it to be completely eliminated.

In other recent news, an Arkansas state representative rehomed his adopted daughters, claiming that their behavioral issues put his other children in danger.¹³² The new guardian later molested one of the children.¹³³ The representative claimed that the state Department of Human Services failed to provide adequate support, which led to the decision to re-home the girls.¹³⁴ If this practice can occur within a family of a public figure who, theoretically, should have access to more assistance, there is no question that this practice occurs much more often in this country than has been documented. These publicized events should make legislators understand the actual impact this practice

128. See *Assessing the Field*, *supra* note 125.

129. Marianne Levine, *Advocates for Adopted Children Decry 'Private Rehoming'*, L.A. TIMES (July 9, 2014, 7:36 PM), <http://www.latimes.com/nation/la-na-senate-adoption-transfers-20140709-story.html>.

130. *Id.*

131. *Id.*

132. Benjamin Hardy, *A Child Left Unprotected*, ARK. TIMES (Mar. 5, 2015), <http://www.arktimes.com/arkansas/a-child-left-unprotected/Content?oid=3691164>.

133. *Id.*

134. KARK 4 News, *Legislator Who Rehomed Children Has Received \$4M in Public Funds Since 2010*, ARK. MATTERS (Mar. 13, 2015 11:16 AM), <http://www.arkansasmatters.com/story/d/story/legislator-who-rehomed-children-has-received-4m-in/28690/LTIF-URA1kG8vhLj5WkK7A>.

has on the country and lead to the implementation of some of these earlier suggestions.

V. CONCLUSION

While some states are proposing and enacting legislation to combat re-homing, there is still a lack of uniform regulations outlawing this practice. There is a severe inability to punish those who partake in re-homing and abandon their adopted children. States should take serious measures to enact new legislation that defines re-homing and makes the practice illegal. Additionally, stronger federal oversight of adoptions among different states and with foreign nations would help ensure that children do not end up in dangerous and unsafe living situations. Finally, adoption policies should incorporate stricter standards for adoptive parents and establish programs to assist adoptive parents and children as they begin their new lives together. These actions together will help to combat and put an end to re-homing. The children of re-homing cannot protect themselves, and it is the responsibility of those who set regulations and policies to take the necessary action now to end this practice.