

Speech by Minister Katherine Zappone  
Adoption Authority of Ireland Seminar –  
Adoption (Amendment) Bill  
1<sup>st</sup> of December 2016

**Introduction**

Adoption is a huge event in the life of a child – it is an opportunity to change young lives for the better.

The Changes in our Adoption Laws which I am currently working on will bring that opportunity to hundreds of young people in care.

This is a significant moment for children, young people and those who are given the wonderful opportunity to parent.

At the outset can I thank the Adoption Authority of Ireland for hosting this information seminar to increase awareness about the momentous changes which are about to take place.

Firstly let me confirm that the Adoption Amendment Bill cleared Report Stage in the Dáil last night and is now headed for the Seanad – so progress through the Oireachtas is proceeding as planned.

As Minister, I have worked closely with the sector, representative groups and politicians across all parties to ensure that we will have an adoption process which is fully inclusive of everyone involved, and where the children's best interests are always at the heart of decisions involving them.

Following amendments I made to the bill we will have laws which emphasis that the best interests of the child must come first above all else and that the wishes of a child must be determined and given due weight in the process.

Both these provisions arise from the children's referendum.

**The Adoption (Amendment) Bill**

The Bill itself provides for a number of changes each of which will give more children the opportunity to grow up in a family environment with loving, caring and nurturing parents.

There are four main areas of change:

- The Right for any child to be adopted, irrespective of the marital status of parents, and where parents give their consent
- The granting of an adoption through the High Court when parents don't consent
- New opportunities for children in foster care to be adopted – in some cases ending years of fostering
- Provision to allow adoption by a step parent

By the end of today it is my hope that through your networks the summary of these four changes will be spread far and wide to children, young people and parents.

I would now like to elaborate on each of the provisions as detail is important.

First – any child will have the right to be adopted, irrespective of the marital status of his or her parents, where both parents consent to the placing of the child and to the making of an adoption order.

It has long been recognised that this prohibition on married parents choosing to place their child for adoption fails to protect marital children and recognise that the marital contract between their parents is not an iron-clad guarantee that the family is a functional one.

A number of marital children are in long term foster care with parents who would allow their child to be adopted, but they cannot voluntarily choose adoption for their child precisely because they are married.

There is no mechanism by which two parents who are married to each other can simply waive their parental rights should they wish to give effect to an adoption.

Up until now for these children there is no “second chance” available to them which adoption can provide to other non-marital children in similar circumstances and as a result, the 2010 Act in its current form fails to adequately protect the rights of these children.

### **The Bill introduces a new test for involuntary adoption.**

The High Court will have revised criteria under which it can authorise the making of an adoption order without parental consent.

These include circumstances where parents have failed in their duty towards the child for 3-years, when there is no reasonable prospect of parents caring for a child and when children have spent at least 18-months living with applicant parents.

It is important to again note that the best interests of the child must be paramount.

An important point is that the age limit for adoption is being increased from the current position whereby children under 7 are prioritised to all children under the age of 18.

For the first time ever all children of all ages will be treated equally.

Changes which will allow **Fostering to become an Adoption** will bring new and important opportunities for young people who may otherwise spend years in care.

The vast majority of children and young people in care in Ireland today are in foster care.

Tusla, reported at the end of September that of the 6,329 children in care, 5,905 were in foster care.

Foster care accounts for 93% of all of the children in care, 30% of whom have been placed with relatives.

Just eighteen adoption orders have been granted to children from foster so far this year.

The adoption of children from long term foster care may serve to offer some children a second chance to enjoy the stability of a caring and loving family in line with the United Nations Convention on the Rights of the Child.

Each case is of course unique and adoption may not be deemed an appropriate measure for every child in long term foster care.

However this change does offer a real and exciting opportunity for families who may feel they and a foster child are living in limbo.

We are also providing for **the adoption of a child by his or her step parent**.

The Government has taken this opportunity to address the scenario whereby, currently a step parent may only apply to adopt the child jointly with the child's parent.

In those circumstances, the child's parent is also required to adopt his or her own child, and both the step parent and the parent both become adoptive parents.

This anomaly causes concern for some parents over the years and I agree that this is unacceptable.

To address this issue, the Bill provides for the adoption of a child by his or her step parent without the requirement for the child's other parent to adopt his or her own child.

The step parent will be the sole adopter and will have parental rights and duties in respect of that child as a result of the adoption being effected.

There are of course other changes in the bill and I would encourage you to take this opportunity to become familiar and fully aware of all the provisions.

We will also be providing for **civil partners and co-habiting couples to be eligible to apply to jointly adopt a child**. By doing so we will achieve clarity and coherence in our adoption legislation.

It would be remiss of me to let the occasion pass without acknowledging that last week we published **the Information and Tracing Bill** to address the needs of those searching for answers about their identity and history.

I recognise the hugely emotive issue this is for so many people on both sides of the search for information.

That is why we must work together to ease the fears, and in some cases misunderstandings, about what greater transparency will mean among those who fear the consequences of consenting to the release of records.

We must work to help those looking for their birth details to understand and cope with the often unavoidable sensitivities along the path to finding the information they need.

In **conclusion** what we are discussing here today are changes which will ensure that our laws reflect the reality of family life in our country today.

**This work is not easy.**

Legislating and developing policy for human relationships, and particularly at such a formative stage in a person's life, never is.

However I am confident that as policy makers, as campaigners and as believers in change that we are up to the task ahead.

There is now a real opportunity to act in the best interests of our children – that must remain our focus and we must not be deterred for that path.

I am sure that today's seminar will make for a very thought provoking and very valuable day.

ENDS

#### NOTE TO EDITORS

As a whole, the Adoption (Amendment) Bill 2016 represents a comprehensive attempt to overhaul the law in relation to adoption in Ireland. This is particularly demonstrated in the Bill's endowment upon relevant non-guardians of consultation rights in respect of a proposed adoption. Crucially, the 2016 Bill legislates in accordance with Article 42A of the Constitution, bringing the best interests of the child and the voice of the child to the fore in adoption proceedings.

In the Bill's provision for step-parent adoption, the lacuna in the 2010 Act whereby a child's natural parent was required to adopt his or her own child along with his or her partner has been appropriately addressed. Similarly, by reiterating the newly expanded categories of persons eligible to adopt introduced by the 2015 Act, the Bill cures an out-dated approach whereby only married couples could adopt a child jointly.

In conclusion, the Bill goes a long way toward promoting the equal treatment of all children. Removing the ban on the voluntary adoption of marital children and eradicating any differentiation between children based on their age is in accordance with the United Nations Convention on the Rights of the Child and reflects the content of Article 42A. Similarly, the Bill's amendment of section 54 of the 2010 Act regarding the non-voluntary adoption of children is a welcome development. It allows for children to be adopted in the event that their parents fail in their duty toward them in less restrictive circumstances – a move that will hopefully permit children in long-term foster care to be adopted more readily than the extremely exacting circumstances which currently prevail. The inferred availability of re-adoption in the Bill concurrently ensures that those children who have already been adopted retain the ability to be adopted subsequently when the first placement was not successful. Ultimately, I believe that the Adoption (Amendment) Bill 2016 is a piece of legislative development that is to be broadly welcomed as appropriately modernising the law in relation to adoption and promoting security for all children.