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Should Smoking be Banned in Foster and Adoptive Homes?

**By
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A growing number of jurisdictions in the US and around the world have determined that placement with smokers is not in the best interests of children. A July 23, 2009 article in the Western Mail reported that the Welsh council has banned smokers from adopting or fostering children.¹ As of October, 2009, Iowa prohibits smoking in the foster family home or vehicle when foster children are present, and prohibits placement of a child with asthma or any other respiratory disease in a foster home where any member of the household smokes². These are the latest jurisdictions to join the ranks.

A total of seventeen US states have promulgated or drafted regulations prohibiting smoking in foster homes. Most of these states also prohibit smoking in vehicles that transport children. These include NE states Maine, Vermont and Rhode Island, as well as Alaska, Colorado, Iowa, Kansas, Maryland, Montana, New Jersey, Oklahoma, Oregon, Pennsylvania, Texas, Washington, Wisconsin, Wyoming. An additional four states recommend against smoking by foster parents, but do not prohibit it.

Since many jurisdictions have the same regulations for adoption and foster care, and since many placements are legal risk situations before children are legally freed for adoption, smoking bans already apply to many prospective adopters. In addition, many public and private adoption providers are considering whether they can justify placing young children with parents who smoke.

What are the risks?

The risks of smoking are well-known and well-documented. The risks of secondhand smoke are also well-known and have given rise to prohibitions of smoking in many public places such as airports, restaurants, government buildings and other workplaces.

¹ <http://www.walesonline.co.uk/news/wales-news/2009/07/25/smokers-banned-by-welsh-council-from-adopting-or-fostering-children-91466-24235809/>

² <http://www.ifapa.org/search/queryindex.asp>; http://www.ifapa.org/pdf_docs/newdhsrules.pdf

The Environmental Protection Agency (EPA) warns about serious health risks to children³, who are particularly vulnerable to the effects of secondhand smoke because they are still developing physically, have higher breathing rates than adults, and have little control over their indoor environments. Research indicates that exposure to secondhand smoke can cause asthma in children who have not previously exhibited symptoms. Children who regularly breathe secondhand smoke are at increased risk for middle ear infections, and are at increased risk for Sudden Infant Death Syndrome. Children younger than 6 who are regularly exposed to secondhand smoke are at increased risk of respiratory track infections, such as pneumonia and bronchitis.

The EPA encourages that until parents and caregivers can quit smoking, they should smoke outside to protect their children. In other words, even if the parents and/or caregivers choose to smoke, they should choose to not smoke (or allow others to smoke) in the home or car. The U.S. Surgeon General has found that there is no safe level of exposure to secondhand smoke.

Secondhand smoke is regarded a significant enough threat that EPA's activities are designed to raise awareness among all smokers not to smoke around children or allow others to do so. The agency's activities also include encouraging the public to maintain smoke-free homes and cars for their children. In addition, EPA and the U.S. Department of Health and Human Services (HHS), Administration for Children and Families, and the Head Start Bureau are working together to improve the quality of life for nearly a million Head Start children by conducting nationwide secondhand smoke and asthma outreach.⁴ Schools and child care settings routinely prohibit smoking, and Council on Accreditation requires organizations to develop and implement policy prohibiting smoking in administrative and service areas.

Controversy

In Wales as well as in other locations, smoking bans have not occurred without controversy. Foster parents and prospective adopters have argued that such bans infringe on their rights of privacy. They have also argued that parental autonomy rights are curtailed by orders prohibiting smoking in the home or in the presence of the child. Some smokers have tried to claim that new regulations banning smoking are discriminatory. In Wales, opposition to the ban has been particularly vociferous, but smokers are not a protected class and best interests of the child outweigh a smoker's rights. As rules have been implemented, foster and adoptive parents have adjusted, eventually agreeing that smoke free environments are better for children and more healthful for parents, as well.

Foster and adoptive parent recruiters have worried that prohibition of smoking would reduce the number of eligible applicants and, therefore, adversely affect their ability to help children achieve permanency. In spite of such concern, in 2006, Child Welfare

³ Environmental Protection Agency: Health Effects of Exposure to Secondhand Smoke
<http://www.epa.gov/smokefree/healtheffects.html>

⁴ [Care for their Air: Promoting Smoke-free Homes for Head Start Families.](#)

League of America reported that a ban on smoking in foster homes in Maine did not noticeably reduce the number of foster parent applicants.⁵

Smoking and Custody

A search of adoption case databases did not produce evidence that smoking has been a factor yet in adoption decisions; however, smoking has played a major role in several custody decisions.⁶ In divorce and other custody battles, courts have determined that consideration of secondhand smoke exposure can be equivalent to any other home safety factor. Courts have ordered smoking cessation as a condition of custody and visitation, and have awarded custody to nonsmoking parents. Courts have held that a child's right to a safe and healthy environment and the state's authority to ensure the same have outweighed parental rights. With these precedents, it is likely that smoking will become a factor in adoption decisions before too long.

Smoking as a factor in Home Studies and Matching

Clearly, since the effect of secondhand smoke is a factor that may be considered by a court in its custody determination, it is reasonable for adoption and home study processes to consider smoking as a parental habit that affects the safety and health of the children. Given the growing awareness of the dangers of exposure to secondhand smoke, expectant parents considering a plan for adoption are sometimes more inclined to select a non-smoking family, even when they are smokers themselves.

Secondhand smoke and a child's health is compelling, but it isn't the only factor that might be important to an adoption agency or a relinquishing parent. They might also consider the effect that smoking can have on a prospective adopter's life expectancy. Especially among older adopters, the potential for reduced life expectancy because of smoking is a legitimate concern worthy of consideration. An agency entrusted with the responsibility of making decisions in the best interests of a child may be reluctant to place a child, who has already experienced the loss of family of origin, in a family where a parent may have a reduced life expectancy because of smoking.

In a recent discussion, an adoption reform advocate, whose adoptive parent drank excessively, opined that she wishes the adoption agency that placed her had been more cognizant of the effects of parental alcohol abuse on a child. In 2009, reputable adoption and foster care providers would not knowingly place a child in a home where a parent abuses alcohol or any other substance. How long will it be before placement agencies determine that children should not be placed with foster or adoptive parents who smoke? Probably, not long.

Etta Lappen Davis is a consultant specializing in child welfare regulation and accreditation. She quit smoking (group hypnosis) almost 20 years ago.

⁵ Children's Voice Vol. 15 No. 3, May/June 2006 <http://www.cwla.org/voice/0605health.htm>

⁶ Secondhand Smoke and the Family Courts: The Role of Smoke Exposure in Custody and Visitation Decisions Kathleen Hoke Dacheille and Kristine Callahan, June 2005, A Law Synopsis by the Tobacco Control Legal Consortium, Retrieved online 9/27/09 at: <http://www.wmitchell.edu/TobaccoLaw/resources/family%20law.pdf>