

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR RE:
PETITION TO AMEND RULES
REGULATING THE FLORIDA BAR
SUBCHAPTER 6-27 EDUCATION AND
6-28 ADOPTION

CASE NO. SC08-1981

COMMENTS TO PROPOSED STANDARDS FOR ADOPTION CERTIFICATION

Comes now, Peggy Clarie Senentz, Esquire, Florida Bar No. 0727946 submits the following as comments for the Proposed Adoption Certification Standards filed by the Florida Bar and states as follows:

1. This response is to the Proposed Adoption Certification Standards printed in the September 15, 2008 Florida Bar News, Vol. 35, Number 18. My name is Peggy Clarie Senentz, Esquire and I practice is divided evenly between adoption law and estate planning.
2. I am writing to support the establishment of Adoption Certification and appreciate the efforts made by Ms. Amy Hickman, Esquire and other attorneys of the Florida Bar to advocate for Adoption Certification.
3. I have concerns about Proposed Rule 6-28.2(b), Minimum Number of Cases required for certification, and the possibility of this rule creating an exclusionary effect.
 - a. The applicable section of the rule is as follows: Rule 6-28.2 Definitions:
(b) Minimum Number of Cases: The applicant must demonstrate substantial involvement, as defined in subdivision (c) below, in a minimum of 50 adoption placements in circuit courts during the 5-year period immediately proceeding the date of application. *All such placements must have involved the placement of a minor child with an adoptive family who is not related to the child within the third degree of consanguinity or is not the minor child's stepparent.* In each of these 50 adoption placements, the applicant must appear have appeared before the court as the adoption entity, as defined in chapter 63, Florida Statutes, on behalf of the adoptive parents or as the lawyer for the adoption entity. In each of these 50 adoption placements, the applicant must have been responsible for all or majority of the legal decisions concerning the minor's child adoption placement, termination of the biological and legal parents' parental rights, and finalization of the adoption. If the applicant does not meet the proceeding requirement, the applicant must demonstrate substantial involvement, as defined in subdivision (c) below, in a minimum of 15 contested adoption proceedings or appeals within the 5 year period immediately preceding the date of application. In each of these 15 contested adoption proceedings or appeals, the applicant must have been responsible for all or a majority of the legal decisions in each case. (Emphasis added)
4. My concern with this section of the rule is the limiting effect it has the

number of attorneys who may seek to file for certification. The minimum number of cases rule does not allow an attorney to submit as a qualifying case relative or stepparent adoptions. As a result of excluding these types of adoptions, the pool of applicants who may seek certification is significantly lower and limits the certification opportunity to those attorneys whose practice is primarily third party placements. This often is an attorney who owns an adoption agency or serve as staff attorney for an agency.

5. Stepparent and adult adoptions while treated as “simplified” proceedings under the statute may not be as simplified as portrayed. In some cases, an attorney may undertake additional statutory steps to assure a placement is secure and interest of birth parent(s) and adoption parent(s) are protected. I would respectfully suggest that the proposed certification standard as written is dismissive to the some of the complexities that accompany relative and stepparent adoption. I would suggest that 60% of all adoptions are stepparent/relative and it would be beneficial to allow certification to be available for the family lawyers that often the ones filing the stepparent adoptions.

6. Florida Bar certification in adoption law is much needed as this field of law has significant consequences if it is not undertaken with knowledge of the law and proper addressing of the constitutional rights of all the parties. There are no winners in a disrupted adoption and/or contested adoption.

7. As written, the qualifying minimum number of cases excludes a significant number of potential attorneys, for example family lawyers, who may be interested in seeking certification.

8. As an alternative to the current standards, I would suggest that adoption certification could be offered in two areas, a limited certification for the larger number of attorneys who limit their practice to stepparent, relative, adult adoption and full adoption certification for the smaller number of attorneys that their practice is primarily third party placements such as adoption agency staff attorneys and adoption attorneys agency owners .

Signed _____ day of November, 2008

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I hereby certify that copy hereof has been furnished to the below listed party by United States regular mail on November __, 2008.

John F. Harkness, Jr.
Executive Director of the Florida Bar
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PEGGY CLARIE SENENTZ, ESQUIRE