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February 24, 2010

Senator John Kerry, Chairman of the Senate Foreign Relations Committee
Washington D.C.

RE: S. 1458 – the Families for Orphans Act

Dear Senator Kerry:

On behalf of the American Academy of Adoption Attorneys, I am writing to offer our views about S. 1458, the Families for Orphan's Act.

We applaud the intention of the bill to assist in implementation of comprehensive strategies to help children without parental care find safe, legal, permanent families. However, we fear that the current language of the bill may not help children as intended, but instead, present or allow for impediments that ultimately may prevent children from actually finding permanent families.

Specifically, we believe that:

- While the bill supports permanent family care, there are key provisions in the bill advocating options of "legal guardianship" and "legal kinship"; and such options may prevent a child from the care of a permanent family by creating new or other forms of foster care which are temporary in nature and often involving payments for parenting.
- The language in the bill supporting principles of "subsidiarity" create too strong of a preference for the use of all other options for the care of children over the option of international adoption.
- Other language in the bill appears to communicate a prejudice against adoption and relegate international adoption to the choice of last resort for children - after all other options have failed. Further, there is no

regard to any sense of urgency (for finding a permanent family) that experts universally agree is a very important factor in proper childhood development

- The language of the bill is inconsistent with the Hague Convention on Intercountry Adoption, which was implemented in the U.S. on April 1, 2008. The preamble to the Hague Convention makes clear that absent true family care in a child's country of birth, intercountry adoption should be a priority option for children as compared to all other options including institutionalization.

The provisions in the bill that create an Office of Orphan Policy, Diplomacy and Development (within the Department of State) and task this office with implementing strategies to help children without parental care find safe, legal, permanent families are seen as a very positive step for protecting the rights of children and promoting a child's right to nurturing from a permanent family. However, to be effective, such an office must have clear guidelines that unequivocally promote child welfare and advance children's rights.

We certainly support an act that makes clear a purpose of encouraging true permanent homes for children who can't be raised by their birth parents; and that promotes adoption as the priority solution best for children in most instances, whether domestic or international. However, such a bill should clearly aim primarily at promoting families for orphans.

We would be happy to assist with recommending changes to the language of the bill to the extent that our above concerns can be addressed and incorporated into any revised language.

Please feel free to contact me at 610-688-8600 or Mr. Michael Roush, the Academy's Washington representative, at 202-744-3365 if we can be of additional assistance.

Sincerely,



Bill Rosen

Chair, International Committee – American Academy of Adoption Attorneys

CC. Senator Richard Lugar, Ranking Member of the Senate Foreign Relations Committee
Senator Mary Landrieu
Senator Jim Inhofe

The Academy is a non-profit association of attorneys, judges, and law school professors who practice, or have otherwise distinguished themselves, in the field of adoption law. Its mission is to support the rights of children to live in safe, permanent homes with loving families, to ensure full consideration of the interests of all parties to adoptions, and to assist in the orderly and legal process of adoption. Fellows of the Academy represent adoptive parents, birthparents, adoption agencies and others involved in adoptions and they must maintain their practice according to the highest standards of professionalism, competence and ethics.