

Adopting social media in adoption law

Social media has changed how families talk about adoption. Many hopeful adoptive parents turn to social media to find children available for adoption. Birth mothers may use social media to match with an adoption agency. And children of adoptive families often use social media to acquaint themselves with their birth parents and birth siblings. Despite the considerable influence social media has played in the lives of adoptive families, the intersection of adoption law and social media has gone largely unregulated. For [www.parenting.digital](#), [Stacey Steinberg](#), [Karla Herrera](#) and [Meredith Burgess](#) discuss their [forthcoming article](#) and the impact of social media on adoption law.

In order to understand the role of social media in adoption law, one first must explore [how social media has impacted family life](#) more generally. While most privacy laws in the United States focus on conflicts between individuals and those living outside the family unit, there are few laws that govern how individuals – particularly children — within a family unit can have privacy *separate and apart* from one another — [particularly their parents](#). This is generally due to principles of family autonomy and the belief that parents will generally act in a manner that is in the best interests of their own children. Other countries, particularly those in the European Union, recognize that children have rights to privacy that at times stand apart from their parents. This recognition is reflected in [section VI E of Comment 25 of the United Nations Convention on the Rights of the Child](#).

In the United States, parents of children in foster care retain many rights even when children are placed in the state's custody. For example, in Florida, parents whose children have been removed from their care due to abuse or neglect are generally required consent before a child receives psychotropic medications and must be invited to participate in special education meetings at the child's public school. However, when the state has custody of these same children, there are other rights that revert to the state to control. For example, parents of children in foster care (in Florida) do not retain the right to regulate how their children use social media or how their children are shared online by others.

Many states often [permit foster parents to post pictures of foster children online](#). The stated reasoning for this practice is that it can alleviate awkward situations such as when a blended family (comprised both of birth children and foster children) take trips and a photograph is taken of the children all together. In many states, photos such as these could be posted on social media without obscuring the faces of the foster children. These laws place foster parents in control of day-to-day decision-making regarding how children use social media and how others view "their" foster children online.

Interestingly, many of the rules in the United States regarding posting pictures of foster children mimic the practices for posting pictures of adoptive children. The foster parents of foster children can dictate how the child uses social media and can post pictures of the child online *with the general exception that they usually cannot post the child's name online*. The adoptive parents of adoptive children – after the adoption is finalized – can dictate how the child uses social media, can post pictures of the child online *and* include the adoptive child's name. In the United States, we regularly see photos taken on adoption day reflecting the number of days the child spent in foster care and the date of adoption. These photos often include the child's name. While I am not familiar with a case directly on point, U.S. courts would likely not permit adoptive parents to post the names of the birth parents unless expressly authorized to do so by the birth parents.

As adoptions continue to move online, policy makers must consider not only the relationships between birth parents, adoptive parents, and children, but the important relationships children have [outside of the parent-child dynamic](#). These relationships are rarely protected by law, often at great cost to children. For example, in many states, siblings do not have standing to challenge the adoption of each other, even if this means that all contact between the siblings will cease.

In their article, [The New Law of the Child](#), Dean Laura Rosenbury and Professor Anne Dailey argue for an expansion of the legal understanding of children's rights beyond the scope of dependency and autonomy. Ideally, these rights would go "[beyond acknowledging relationships of authority to encompass children's nonhierarchical relationships with siblings, other children, and nonparental adults](#)." As children grow up and access social media, birth siblings may find ways to connect online. Instead of ignoring this reality, adoptive families and courts could prepare for these relationships and include references to birth sibling contact in post-adoption agreements.

We hope that [our forthcoming paper *Adopting Social Media in Adoption Law*](#) offers a comprehensive overview of the impact of social media on adoption law, that it suggests novel questions for family law and internet scholars to study, and that it offers solutions for policy makers to consider as they seek out ways to improve outcomes for parents and children impacted by foster care and adoption. The article encourages lawmakers to ensure children have agency within their adoptive families to “[preserve his or her identity, including nationality, name and family relations](#)” as called for in the United Nations Convention on the Rights of the Child. This article could offer practitioners guidance that reflects the changing landscape facing families brought together by adoption and encourage adoptive parents to consider the rights of children and birth parents during adoption finalization proceedings.

We welcome comments as we continue to explore these issues.

Notes

The blog contains excerpts from a forthcoming article by Stacey Steinberg (UF Law Professor, Karla Herrera (UF Law student) and Meredith Burgess (UF Law student) on Adopting Social Media in Adoption Law, [Utah Law Review](#) (forthcoming 2023).

First published at [www.parenting.digital](#), this post represents the views of the authors and not the position of the Parenting for a Digital Future blog, nor of the London School of Economics and Political Science.

You are free to republish the text of this article under Creative Commons licence crediting [www.parenting.digital](#) and the author of the piece. Please note that images are not included in this blanket licence.

Featured image: photo by Kampus Production from Pexels