

SENATE BILL No. 362

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-46-1-9.

Synopsis: Adoption deception. Provides that a person who allows for the payment of adoption related expenses under certain statutorily proscribed false pretenses commits adoption deception, a Class D felony. Requires a court to order a person who commits adoption deception to make restitution to a prospective adoptive parent who paid or on whose behalf unlawful adoption related expenses were paid. Requires an attorney or child placing agency to inform a birth mother, or person who seems to be a birth mother, of the penalties for committing adoption deception before transferring a payment for adoption related expenses with respect to the birth mother or other person.

Effective: July 1, 1998.

Clark

January 8, 1998, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in **this style type**.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 362

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-46-1-9, AS AMENDED BY P.L.226-1996,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 9. (a) Except as provided in subsection (b), a
4 person who, with respect to an adoption, transfers or receives any
5 property in connection with the waiver of parental rights, the
6 termination of parental rights, the consent to adoption, or the petition
7 for adoption commits profiting from an adoption, a Class D felony.
8 (b) This section does not apply to the transfer or receipt of:
9 (1) reasonable attorney's fees;
10 (2) hospital and medical expenses concerning childbirth and
11 pregnancy incurred by the adopted person's birth mother;
12 (3) reasonable charges and fees levied by a child placing agency
13 licensed under IC 12-17.4 or by a county office of family and
14 children;
15 (4) reasonable expenses for psychological counseling relating to
16 adoption incurred by the adopted person's birth parents;
17 (5) reasonable costs of housing, utilities, and phone service for the

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- 1 adopted person's birth mother during the pregnancy and not more
 2 than six (6) weeks after childbirth;
- 3 (6) reasonable costs of maternity clothing for the adopted person's
 4 birth mother;
- 5 (7) reasonable travel expenses incurred by the adopted person's
 6 birth mother that relate to the pregnancy or adoption;
- 7 (8) any additional itemized necessary living expenses for the
 8 adopted person's birth mother during the pregnancy, not listed in
 9 subdivisions (5) through (7) in an amount not to exceed one
 10 thousand dollars (\$1,000) and that are disclosed to the court
 11 supervising the adoption; or
- 12 (9) other charges and fees approved by the court supervising the
 13 adoption, including reimbursement of not more than actual wages
 14 lost as a result of the inability of the adopted person's birth mother
 15 to work at her regular, existing employment due to a medical
 16 condition, excluding a psychological condition, if:
- 17 (A) the attending physician of the adopted person's birth
 18 mother has ordered or recommended that the adopted person's
 19 birth mother discontinue her employment; and
- 20 (B) the medical condition and its direct relationship to the
 21 pregnancy of the adopted person's birth mother are
 22 documented by her attending physician.
- 23 In determining the amount of reimbursable lost wages, if any, that are
 24 reasonably payable to the adopted person's birth mother under
 25 subdivision (9), the court shall offset against the reimbursable lost
 26 wages any amounts paid to the adopted person's birth mother under
 27 subdivisions (5) and (8) and any unemployment compensation received
 28 by or owed to the adopted person's birth mother.
- 29 **(c) Before an attorney or a child placing agency transfers a
 30 payment for adoption related expenses under subsection (b) with
 31 respect to:**
- 32 **(1) a birth mother; or**
- 33 **(2) a person who seems to be a birth mother;**
- 34 **the attorney or agency shall inform the birth mother or other
 35 person of the offense of adoption deception and the penalties under
 36 this section.**
- 37 **(d) A person described under subsection (c)(1) or (c)(2) who:**
- 38 **(1) knowingly or intentionally allows any of the person's
 39 adoption related expenses under subsection (b) to be paid; and**
- 40 **(2) does not intend at the same time to proceed with an
 41 adoptive placement with respect to a prospective adoptive
 42 parent who paid or on whose behalf the adoption related**

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1 **expenses were paid;**
2 **commits adoption deception, a Class D felony. In addition to any**
3 **other penalty imposed under this subsection, a court shall order a**
4 **person who commits adoption deception to make restitution to the**
5 **prospective adoptive parent.**
6 **(e) Prima facie evidence of adoption deception under subsection**
7 **(d) includes the following:**
8 **(1) Allowing the payment of adoption related expenses by, or**
9 **on behalf of, more than one (1) set of prospective adoptive**
10 **parents at the same time.**
11 **(2) Allowing the payment of adoption related expenses when**
12 **the person knows or should have known that the person is not**
13 **pregnant.**

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