

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 425 be amended to read as follows:

- 1 Page 16, between lines 38 and 39, begin a new paragraph and insert:
2 "SECTION 23. IC 35-46-1-9, AS AMENDED BY P.L.226-1996,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1998]: Sec. 9. (a) Except as provided in subsection (b), a
5 person who, with respect to an adoption, transfers or receives any
6 property in connection with the waiver of parental rights, the
7 termination of parental rights, the consent to adoption, or the petition
8 for adoption commits profiting from an adoption, a Class D felony.
9 (b) This section does not apply to the transfer or receipt of:
10 (1) reasonable attorney's fees;
11 (2) hospital and medical expenses concerning childbirth and
12 pregnancy incurred by the adopted person's birth mother;
13 (3) reasonable charges and fees levied by a child placing agency
14 licensed under IC 12-17.4 or by a county office of family and
15 children;
16 (4) reasonable expenses for psychological counseling relating to
17 adoption incurred by the adopted person's birth parents;
18 (5) reasonable costs of housing, utilities, and phone service for the
19 adopted person's birth mother during the pregnancy and not more
20 than six (6) weeks after childbirth;
21 (6) reasonable costs of maternity clothing for the adopted person's
22 birth mother;
23 (7) reasonable travel expenses incurred by the adopted person's
24 birth mother that relate to the pregnancy or adoption;
25 (8) any additional itemized necessary living expenses for the
26 adopted person's birth mother during the pregnancy, not listed in
27 subdivisions (5) through (7) in an amount not to exceed one
28 thousand dollars (\$1,000) and that are disclosed to the court
29 supervising the adoption; or
30 (9) other charges and fees approved by the court supervising the
31 adoption, including reimbursement of not more than actual wages
32 lost as a result of the inability of the adopted person's birth mother
33 to work at her regular, existing employment due to a medical

- 1 condition, excluding a psychological condition, if:
- 2 (A) the attending physician of the adopted person's birth
- 3 mother has ordered or recommended that the adopted person's
- 4 birth mother discontinue her employment; and
- 5 (B) the medical condition and its direct relationship to the
- 6 pregnancy of the adopted person's birth mother are
- 7 documented by her attending physician.

8 In determining the amount of reimbursable lost wages, if any, that are

9 reasonably payable to the adopted person's birth mother under

10 subdivision (9), the court shall offset against the reimbursable lost

11 wages any amounts paid to the adopted person's birth mother under

12 subdivisions (5) and (8) and any unemployment compensation received

13 by or owed to the adopted person's birth mother.

14 **(c) Before an attorney or a child placing agency transfers a**

15 **payment for adoption related expenses under subsection (b) with**

16 **respect to:**

- 17 **(1) a birth mother; or**
- 18 **(2) a person who seems to be a birth mother;**
- 19 **the attorney or agency shall inform the birth mother or other**
- 20 **person of the offense of adoption deception and the penalties under**
- 21 **this section.**

22 **(d) A person described under subsection (c)(1) or (c)(2) who:**

23 **(1) knowingly or intentionally allows any of the person's**

24 **adoption related expenses under subsection (b) to be paid; and**

25 **(2) does not intend at the same time to proceed with an**

26 **adoptive placement with respect to a prospective adoptive**

27 **parent who paid or on whose behalf the adoption related**

28 **expenses were paid;**

29 **commits adoption deception, a Class D felony. In addition to any**

30 **other penalty imposed under this subsection, a court shall order a**

31 **person who commits adoption deception to make restitution to the**

32 **prospective adoptive parent.**

33 **(e) Prima facie evidence of adoption deception under subsection**

34 **(d) includes the following:**

- 35 **(1) Allowing the payment of adoption related expenses by, or**
- 36 **on behalf of, more than one (1) set of prospective adoptive**
- 37 **parents at the same time.**
- 38 **(2) Allowing the payment of adoption related expenses when**

1 **the person knows or should have known that the person is not**
2 **pregnant."**

3 Renumber all SECTIONS consecutively.
(Reference is to SB 425 as printed January 30, 1998.)

Senator CLARK