

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6932
BILL NUMBER: SB 310

DATE PREPARED: Feb 26, 1999
BILL AMENDED: Feb 25, 1999

SUBJECT: Adoption deception and adoption expenses.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill prohibits payments of more than \$3,000 for certain adoption related expenses of a birth mother unless a greater amount is ordered by the court. The bill requires adoption related payments to be disclosed to the court supervising the adoption. It limits payments for certain living expenses of a birth mother to expenses that are incurred during the second or third trimester of a birth mother's pregnancy and six weeks after childbirth.

This bill provides that a birth mother, or a woman who holds herself out to be a birth mother, who benefits from adoption related expenses incurred under certain false pretenses commits adoption deception, a Class A misdemeanor. The bill allows a court to order a person who commits adoption deception to make restitution to a prospective adoptive parent, attorney, or licensed child placing agency that incurs an expense as a result of the offense. It requires an attorney or licensed child placing agency to inform a birth mother of the penalties for committing adoption deception before the attorney or agency transfers a payment for adoption related expenses in relation to the birth mother.

This bill adds an attorney representing a birth mother to the list of persons allowed to serve actual notice of a potential adoption upon a putative father before the birth of a child. The bill provides that a putative father's implied consent to an adoption is also an implied consent to the termination of the parent-child relationship. It provides that a putative father whose consent to an adoption has been implied is not barred from establishing paternity under certain conditions.

This bill provides that consent to the termination of the parent-child relationship is not required in certain circumstances. The bill provides for the following requirements in paternity actions in which an adoption is pending: (1) Requires the court to conduct an initial hearing not more than 30 days after the filing of the paternity petition or the birth of the child, whichever occurs later. (2) Requires the court to order blood or genetic testing at the initial hearing and requires the court to order the State Department of Health to pay for the testing under certain circumstances. (3) Requires the court to conduct a final hearing to determine

paternity not later than 90 days after the initial hearing. (4) Requires the court to issue its ruling in the paternity action not more than 14 days after the final hearing.

This bill provides that a licensed child placing agency or an attorney in an adoption shall submit to the court an affidavit setting forth the circumstances surrounding service of prebirth actual notice to a putative father, regardless of who served the notice. The bill requires a court to enter a default judgment against and terminate the parental rights of a parent who fails to appear at the termination hearing after being located and served with notice of the hearing. It repeals certain provisions governing unreasonable delay in paternity actions when an adoption is pending. It makes conforming amendments.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) This bill requires the State Department of Health (SDOH) to pay for a blood or genetic test ordered by a court if an individual cannot pay for the test. It is estimated that the cost for a blood test is \$18. The bill allows the SDOH to pay for the test using funds in the Putative Father Registry. The bill also gives the SDOH the authority to recover the cost of the test from an individual found to be the biological father. There was \$122,240 collected in the past fiscal year in the Putative Father Registry. The Putative Father Registry is used to locate the name and address of an individual who may have conceived a child for whom a petition for adoption has been filed.

Explanation of State Revenues: This bill creates a Class A misdemeanor if a birth mother or, a woman who holds herself to be a birth mother, benefits from adoption related expenses incurred under certain false pretenses. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) This bill changes the time frame in which an initial hearing to establish a child's paternity when an adoption petition is pending, from a "reasonable" period to not more than 30 days after the paternity petition is filed or the child is born, whichever occurs later. In order to meet this requirement, courts will have to rearrange their court dockets, and process cases faster. Depending upon the number of petitions, passage of this bill could increase the number of hearings that the courts would have to schedule within a short period of time. The greatest impact on caseload scheduling will be on courts in jurisdictions that have a large number of adoption petitions pending due to paternity actions.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement

the compensation of jury members.

State Agencies Affected: State Department of Health.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: