

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 534**

Citations Affected: IC 31-17-3-2; IC 31-19; IC 31-35-1; IC 34-24-3-1.5; IC 34-24-3-3; IC 35-46-1.

Synopsis: Various family law matters. Conference committee report for ESB 534. Provides that: (1) proceedings for voluntary termination of parent-child relationships and adoptions are not governed by the uniform child custody jurisdiction law; (2) certain adoption notices are valid regardless of whether the notice is served within or outside Indiana; (3) adoption notices served on a putative father who is not a resident of Indiana are valid if certain conditions are met; (4) a parent who has given valid consent to the termination of the parent-child relationship may waive certain notice requirements; (5) certain notices of adoption proceedings shall be served by publication in the same manner that a summons is served by publication; and (6) if a prospective adoptive parent suffers a pecuniary loss as a result of a violation of adoption deception, the prospective parent may bring a civil action against the person who benefits from the adoption related expenses. Allows a petition for adoption to be amended to substitute another petitioner under certain circumstances. Requires that if a parent has given written consent, been advised concerning a voluntary termination of the parent-child relationship, and appears in court, the court may consider only whether the consent for the termination of the parent-child relationship was voluntary. Changes the period within which a putative father may register with the putative father registry to be entitled to notice of an adoption. Makes it a Class A misdemeanor to place a paid advertisement or paid listing of a telephone number in a telephone directory: (1) that a child is offered or wanted for adoption; or (2) to place or locate a child for adoption; unless the advertisement or listing is placed by an attorney or a licensed child placing agency and certain other requirements are met. Requires a person that publishes a telephone directory to include certain information concerning adoption and adoption services. **(This conference committee report: (1) provides that only a person that is a licensed attorney or licensed child placing agency may place a paid listing of the person's telephone number; and (2) requires a person that publishes a telephone directory to include a statement that informs directory users that only licensed attorneys and licensed child placing agencies may legally provide adoption services.)**

Effective: July 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 534 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 31-17-3-2, AS AMENDED BY P.L.68-2005,
- 3 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2007]: Sec. 2. As used in this chapter:
- 5 (1) "contestant" means a person, including a parent, who claims
- 6 a right to custody or parenting time rights with respect to a child;
- 7 (2) "custody determination" means a court decision and court
- 8 orders and instructions providing for the custody of a child,
- 9 including parenting time rights; it does not include a decision
- 10 relating to child support or any other monetary obligation of any
- 11 person;
- 12 (3) "custody proceeding" includes proceedings in which a custody
- 13 determination is one of several issues, such as an action for
- 14 dissolution of marriage, but does not include child in need of
- 15 services, **voluntary termination of a parent-child relationship,**
- 16 **or adoption** proceedings;
- 17 (4) "decree" or "custody decree" means a custody determination
- 18 contained in a judicial decree or order made in a custody
- 19 proceeding, and includes an initial decree and a modification
- 20 decree;
- 21 (5) "home state" means the state in which the child, immediately
- 22 preceding the time involved, lived with the child's parents, a

1 parent, or a person acting as parent, for at least six (6) consecutive
 2 months, and in the case of a child less than six (6) months old the
 3 state in which the child lived from birth with any of the persons
 4 mentioned. Periods of temporary absence of any of the named
 5 persons are counted as part of the six (6) month or other period;
 6 (6) "initial decree" means the first custody decree concerning a
 7 particular child;

8 (7) "modification decree" means a custody decree which modifies
 9 or replaces a prior decree, whether made by the court which
 10 rendered the prior decree or by another court;

11 (8) "physical custody" means actual possession and control of a
 12 child;

13 (9) "person acting as parent" means a person, other than a parent,
 14 who has physical custody of a child and who has either been
 15 awarded custody by a court or claims a right to custody; and

16 (10) "state" means any state, territory, or possession of the United
 17 States, the Commonwealth of Puerto Rico, and the District of
 18 Columbia.

19 SECTION 2. IC 31-19-2-2 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A resident of
 21 Indiana who seeks to adopt a child less than eighteen (18) years of age
 22 may, by attorney of record, file a petition for adoption with the clerk of
 23 the court having probate jurisdiction in the county in which:

24 (1) the petitioner for adoption resides;

25 (2) a licensed child placing agency or governmental agency
 26 having custody of the child is located; or

27 (3) the child resides.

28 (b) The county in which the petition for adoption may be filed is a
 29 matter of venue and not jurisdiction.

30 **(c) Subject to IC 31-19-9-3, if an individual who files a petition
 31 for adoption of a child:**

32 **(1) decides not to adopt the child; or**

33 **(2) is unable to adopt the child;**

34 **the petition for adoption may be amended or a second petition may
 35 be filed in the same action to substitute another individual who
 36 intends to adopt the child as the petitioner for adoption. The
 37 amended petition or second petition under this subsection relates
 38 back to the date of the original petition.**

39 SECTION 3. IC 31-19-2.5-5 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2007]: **Sec. 5. A notice served in accordance with IC 31-19-4 or
 42 IC 31-19-4.5 is valid regardless of whether the notice is served
 43 within or outside Indiana.**

44 SECTION 4. IC 31-19-3-9 IS ADDED TO THE INDIANA CODE
 45 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 46 1, 2007]: **Sec. 9. (a) A notice served in accordance with this chapter
 47 on a putative father who is a resident of Indiana is valid regardless
 48 of whether the notice is served within or outside Indiana.**

49 **(b) A notice served in accordance with this chapter outside
 50 Indiana on a putative father who is not a resident of Indiana is
 51 valid if the child was conceived:**

- 1 **(1) in Indiana; or**
 2 **(2) outside Indiana, if the laws of the state in which the:**
 3 **(A) father:**
 4 **(i) is served notice; or**
 5 **(ii) resides; or**
 6 **(B) child was conceived;**
 7 **allow a paternity or similar action to be filed before the birth**
 8 **of a child.**

9 SECTION 5. IC 31-19-4-3 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If:

- 11 (1) the mother of a child:
 12 (A) informs an attorney or agency arranging the child's
 13 adoption, on or before the date the child's mother executes a
 14 consent to the child's adoption, that the child was conceived
 15 outside Indiana; and
 16 (B) does not disclose to the attorney or agency the name or
 17 address, or both, of the putative father of the child; and
 18 (2) the putative father of the child has:
 19 (A) failed or refused to consent to the adoption of the child or
 20 has not had the parent-child relationship terminated under
 21 IC 31-35 (or IC 31-6-5 before its repeal); and
 22 (B) not registered with the putative father registry under
 23 IC 31-19-5 within the period under IC 31-19-5-12;

24 the attorney or agency shall serve notice of the adoption proceedings
 25 on the putative father by publication **in the same manner as a**
 26 **summons is served by publication** under Rule 4.13 of the Indiana
 27 Rules of Trial Procedure.

28 (b) The only circumstance under which notice to the putative father
 29 must be given by publication under Rule 4.13 of the Indiana Rules of
 30 Trial Procedure is when the child was conceived outside of Indiana as
 31 described in subsection (a).

32 SECTION 6. IC 31-19-4-7 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. If a putative father
 34 is entitled to notice under section 1, 2, or 3 of this chapter, upon:

- 35 (1) providing service of process in ~~compliance with the same~~
 36 **manner as a summons and complaint are served under** Rule
 37 4.1 of the Indiana Rules of Trial Procedure for notice under
 38 section 1 or 2 of this chapter; or
 39 (2) publication in ~~compliance with the same manner as a~~
 40 **summons is served by publication under** Rule 4.13 of the
 41 Indiana Rules of Trial Procedure for notice under section 3 of this
 42 chapter;

43 no further efforts to give notice to the putative father are necessary,
 44 regardless of whether the putative father actually receives the notice.

45 SECTION 7. IC 31-19-4.5-1 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter:

- 47 (1) shall not be construed to affect notice of an adoption provided
 48 to a putative father under IC 31-19-4; and
 49 (2) applies to a ~~putative~~ father who has abandoned, failed to
 50 support, or failed to communicate with a child.

51 SECTION 8. IC 31-19-4.5-2 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Except as provided
 2 in IC 31-19-2.5-4, if a petition for adoption alleges that consent to
 3 adoption is not required under IC 31-19-9-8, notice of the adoption
 4 must be given to the person from whom consent is allegedly not
 5 required under IC 31-19-9-8. Notice shall be given: ~~under:~~

6 **(1) in the same manner as a summons and complaint are**
 7 **served under** Rule 4.1 of the Indiana Rules of Trial Procedure if
 8 the person's name and address are known; ~~and or~~

9 **(2) in the same manner as a summons is served by publication**
 10 **under** Rule 4.13 of the Indiana Rules of Trial Procedure if the
 11 name or address of the person is not known;

12 to a petitioner for adoption.

13 SECTION 9. IC 31-19-5-12 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) To be entitled
 15 to notice of an adoption under IC 31-19-3 or IC 31-19-4, a putative
 16 father must register with the state department of health under section
 17 5 of this chapter not later than:

18 (1) thirty (30) days after the child's birth; or

19 (2) the **earlier of the** date of the filing of a petition for the:

20 **(A) child's adoption; or**

21 **(B) termination of the parent-child relationship between**
 22 **the child and the child's mother;**

23 whichever occurs later.

24 (b) A putative father may register under subsection (a) before the
 25 child's birth.

26 SECTION 10. IC 31-19-9-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** A consent to
 28 adoption that does not name or otherwise identify a petitioner for
 29 adoption is valid if the consent to adoption contains a statement, by the
 30 person consenting to adoption, that the person consenting to adoption
 31 voluntarily executed the consent to adoption without disclosure of the
 32 name or other identification of the petitioner for adoption.

33 **(b) A petitioner may be substituted under IC 31-19-2-2 if:**

34 **(1) the consent to adoption executed by a child's mother**
 35 **contains a statement, by the mother consenting to adoption,**
 36 **that the mother voluntarily agrees that a petitioner for the**
 37 **adoption may be substituted without additional consent from**
 38 **the mother; or**

39 **(2) the mother executes a written consent to the substitution**
 40 **of a petitioner for the adoption.**

41 **The mother's consent under this subsection is not conditional**
 42 **regardless of whether the mother consents or does not consent to**
 43 **the substitution of petitioners under this subsection.**

44 SECTION 11. IC 31-19-10-3 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A consent to
 46 adoption may be withdrawn not later than thirty (30) days after consent
 47 to adoption is signed if:

48 (1) the court finds, after notice and opportunity to be heard
 49 afforded to the petitioner for adoption, that the person seeking the
 50 withdrawal is acting in the best interest of the person sought to be
 51 adopted; and

- 1 (2) the court orders the withdrawal.
 2 (b) A consent to adoption may not be withdrawn after:
 3 (1) thirty (30) days after the consent to adoption is signed;
 4 (2) the person who signs the consent to adoption appears, **in**
 5 **person or by telephonic communications or video**
 6 **conferencing**, before a court in which the petition for adoption
 7 has been or will be filed **and acknowledges that the person:**
 8 (A) **understood the consequences of the signing of the**
 9 **consent to adoption;**
 10 (B) **freely and voluntarily signed the consent to adoption;**
 11 **and**
 12 (C) **believes that adoption is in the best interests of the**
 13 **person to be adopted;** or
 14 (3) the person who signs the consent to adoption appears, **in**
 15 **person or by telephonic communications or video**
 16 **conferencing**, before a court of competent jurisdiction if the
 17 parent is outside of Indiana and acknowledges that the person:
 18 (A) understood the consequences of the signing of the consent
 19 to adoption;
 20 (B) freely and voluntarily signed the consent to adoption; and
 21 (C) believes that adoption is in the best interests of the person
 22 to be adopted;

23 whichever occurs first.

24 **(c) If a hearing under this section is conducted by telephonic**
 25 **communication or video conferencing, the court shall ensure that**
 26 **the hearing is recorded.**

27 SECTION 12. IC 31-35-1-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) If requested by
 29 the parents:

- 30 (1) the county office of family and children; or
 31 (2) a licensed child placing agency;
 32 may sign and file a verified petition with the juvenile or probate court
 33 for the voluntary termination of the parent-child relationship.

34 (b) The petition must:

- 35 (1) be entitled "In the Matter of the Termination of the
 36 Parent-Child Relationship of _____, a child, and
 37 _____, the child's parent (or parents)"; and
 38 (2) allege that:
 39 (A) the parents are the child's natural or adoptive parents;
 40 (B) the parents, including the alleged or adjudicated father if
 41 the child was born out of wedlock:
 42 (i) knowingly and voluntarily consent to the termination of
 43 the parent-child relationship; or
 44 (ii) are not required to consent to the termination of the
 45 parent-child relationship under section ~~6(b)~~ **6(c)** of this
 46 chapter;
 47 (C) termination is in the child's best interest; and
 48 (D) the petitioner has developed a satisfactory plan of care and
 49 treatment for the child.

50 SECTION 13. IC 31-35-1-5 IS AMENDED TO READ AS
 51 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. **(a) Except as**

1 **provided in subsection (b)**, the parents shall be notified of the hearing
2 in accordance with IC 31-32-9.

3 **(b) A parent who has made a valid consent to the termination of**
4 **a parent-child relationship may waive the notice required by**
5 **subsection (a) if the waiver:**

6 **(1) is in writing either:**

7 **(A) in the parent's consent to terminate the parent-child**
8 **relationship; or**

9 **(B) in a separate document;**

10 **(2) is signed by the parent in the presence of a notary public;**
11 **and**

12 **(3) contains an acknowledgment that:**

13 **(A) the waiver is irrevocable; and**

14 **(B) the parent will not receive notice of:**

15 **(i) adoption; or**

16 **(ii) termination of parent-child relationship;**

17 **proceedings.**

18 SECTION 14. IC 31-35-1-6, AS AMENDED BY P.L.130-2005,
19 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2007]: Sec. 6. (a) Except as provided in subsection ~~(b)~~, **(c)**,
21 the parents must give their consent in open court unless the court
22 makes findings of fact upon the record that:

23 (1) the parents gave their consent in writing before a person
24 authorized by law to take acknowledgments; **and**

25 (2) the parents were:

26 **(A) advised in accordance with section 12 of this chapter; and**

27 **(B) advised that if they choose to appear in open court, the**
28 **only issue before the court is whether their consent was**
29 **voluntary.**

30 ~~(3) the parents failed to appear.~~

31 **(b) If:**

32 **(1) the court finds the conditions under subsection (a)(1) and**
33 **(a)(2) have been met; and**

34 **(2) a parent appears in open court;**

35 **a court may consider only the issue of whether the parent's consent**
36 **was voluntary.**

37 ~~(b)~~ **(c)** The consent of a parent to the termination of the parent-child
38 relationship under this chapter is not required if:

39 (1) consent to the termination of the parent-child relationship is
40 implied under section 4.5 of this chapter, if the parent is the
41 putative father;

42 (2) the parent's consent to the adoption of the child would not be
43 required under:

44 **(A) IC 31-19-9-8;**

45 **(B) IC 31-19-9-9; or**

46 **(C) IC 31-19-9-10; or**

47 (3) the child's biological father denies paternity of the child before
48 or after the birth of the child if the denial of paternity:

49 **(A) is in writing;**

50 **(B) is signed by the child's father in the presence of a notary**
51 **public; and**

1 (C) contains an acknowledgment that:

2 (i) the denial of paternity is irrevocable; and

3 (ii) the child's father will not receive notice of adoption or
4 termination of parent-child relationship proceedings.

5 A child's father who denies paternity of the child under subdivision (3)
6 may not challenge or contest the child's adoption or termination of the
7 parent-child relationship.

8 SECTION 15. IC 31-35-1-12, AS AMENDED BY P.L.68-2005,
9 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2007]: Sec. 12. For purposes of sections 6 and 8 of this
11 chapter, the parents must be advised that:

12 (1) their consent is permanent and cannot be revoked or set aside
13 unless it was obtained by fraud or duress or unless the parent is
14 incompetent;

15 (2) when the court terminates the parent-child relationship:

16 (A) all rights, powers, privileges, immunities, duties, and
17 obligations, including any rights to custody, control, parenting
18 time, or support pertaining to the relationship, are permanently
19 terminated; and

20 (B) their consent to the child's adoption is not required;

21 (3) the parents have a right to the:

22 (A) care;

23 (B) custody; and

24 (C) control;

25 of their child as long as the parents fulfill their parental
26 obligations;

27 (4) the parents have a right to a judicial determination of any
28 alleged failure to fulfill their parental obligations in a proceeding
29 to adjudicate their child a delinquent child or a child in need of
30 services;

31 (5) the parents have a right to assistance in fulfilling their parental
32 obligations after a court has determined that the parents are not
33 doing so;

34 (6) proceedings to terminate the parent-child relationship against
35 the will of the parents can be initiated only after:

36 (A) the child has been adjudicated a delinquent child or a child
37 in need of services and removed from their custody following
38 the adjudication; or

39 (B) a parent has been convicted and imprisoned for an offense
40 listed in IC 31-35-3-4 (or has been convicted and imprisoned
41 for an offense listed in IC 31-6-5-4.2(a) before its repeal), the
42 child has been removed from the custody of the parents under
43 a dispositional decree, and the child has been removed from
44 the custody of the parents for six (6) months under a court
45 order;

46 (7) the parents are entitled to representation by counsel, provided
47 by the state if necessary, throughout any proceedings to terminate
48 the parent-child relationship against the will of the parents; and

49 (8) the parents will receive notice of the hearing, **unless notice is**
50 **waived under section 5(b) of this chapter**, at which the court
51 will decide if their consent was voluntary, and the parents may

1 appear at the hearing and allege that the consent was not
2 voluntary.

3 SECTION 16. IC 34-24-3-1.5 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) If a prospective adoptive**
6 **parent suffers pecuniary loss as a result of a violation of**
7 **IC 35-46-1-9.5, the prospective adoptive parent may bring a civil**
8 **action against a person who benefits from adoption related**
9 **expenses in violation of IC 35-46-1-9.5, even if the person has not**
10 **been prosecuted or convicted of the offense under IC 35-46-1-9.5.**
11 **In an action under this subsection, a prospective adoptive parent**
12 **may seek an award of the following:**

- 13 (1) **Actual damages caused by the violation if the prospective**
14 **adoptive parent has not been awarded damages under**
15 **IC 35-46-1-9.5.**
16 (2) **An amount not to exceed three (3) times the amount of**
17 **actual damages of the prospective adoptive parent suffering**
18 **the loss.**
19 (3) **The costs of the action.**
20 (4) **A reasonable attorney's fee.**

21 (b) **A prospective adoptive parent may bring a civil action**
22 **against a person who commits unauthorized adoption facilitation**
23 **under IC 35-46-1-22, even if the person has not been prosecuted or**
24 **convicted of the offense under IC 35-46-1-22. In an action under**
25 **this subsection, a prospective adoptive parent may seek an award**
26 **of the following:**

- 27 (1) **An amount not to exceed three (3) times the amount that**
28 **the prospective adoptive parent paid for the adoption services**
29 **provided to the prospective adoptive parent in the commission**
30 **of unauthorized adoption facilitation under IC 35-46-1-22.**
31 (2) **The costs of the action.**
32 (3) **A reasonable attorney's fee.**

33 SECTION 17. IC 34-24-3-3 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.** It is not a defense to
35 an action for punitive damages that the defendant is subject to criminal
36 prosecution for the act or omission that gave rise to the civil action.
37 However, a person may not recover both:

- 38 (1) punitive damages; and
39 (2) the amounts provided for under section 1 **or 1.5** of this
40 chapter.

41 SECTION 18. IC 35-46-1-9, AS AMENDED BY P.L.145-2006,
42 SECTION 371, IS AMENDED TO READ AS FOLLOWS
43 [EFFECTIVE JULY 1, 2007]: **Sec. 9. (a)** Except as provided in
44 subsection (b), a person who, with respect to an adoption, transfers or
45 receives any property in connection with the waiver of parental rights,
46 the termination of parental rights, the consent to adoption, or the
47 petition for adoption commits profiting from an adoption, a Class D
48 felony.

- 49 (b) This section does not apply to the transfer or receipt of:
50 (1) reasonable attorney's fees;
51 (2) hospital and medical expenses concerning childbirth and

- 1 pregnancy incurred by the adopted person's birth mother;
- 2 (3) reasonable charges and fees levied by a child placing agency
- 3 licensed under IC 31-27 or by a county office or the department
- 4 of child services;
- 5 (4) reasonable expenses for psychological counseling relating to
- 6 adoption incurred by the adopted person's birth parents;
- 7 (5) reasonable costs of housing, utilities, and phone service for the
- 8 adopted person's birth mother during the second or third trimester
- 9 of pregnancy and not more than six (6) weeks after childbirth;
- 10 (6) reasonable costs of maternity clothing for the adopted person's
- 11 birth mother;
- 12 (7) reasonable travel expenses incurred by the adopted person's
- 13 birth mother that relate to the pregnancy or adoption;
- 14 (8) any additional itemized necessary living expenses for the
- 15 adopted person's birth mother during the second or third trimester
- 16 of pregnancy and not more than six (6) weeks after childbirth, not
- 17 listed in subdivisions (5) through (7) in an amount not to exceed
- 18 one thousand dollars (\$1,000); or
- 19 (9) other charges and fees approved by the court supervising the
- 20 adoption, including reimbursement of not more than actual wages
- 21 lost as a result of the inability of the adopted person's birth mother
- 22 to work at her regular, existing employment due to a medical
- 23 condition, excluding a psychological condition, if:
- 24 (A) the attending physician of the adopted person's birth
- 25 mother has ordered or recommended that the adopted person's
- 26 birth mother discontinue her employment; and
- 27 (B) the medical condition and its direct relationship to the
- 28 pregnancy of the adopted person's birth mother are
- 29 documented by her attending physician.

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

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

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

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

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

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

36 (c) Except as provided in this subsection, payments made under

37 subsection (b)(5) through (b)(9) may not exceed three thousand dollars

38 (\$3,000) and must be disclosed to the court supervising the adoption.

39 The amounts paid under subsection (b)(5) through (b)(9) may exceed

40 three thousand dollars (\$3,000) to the extent that a court in Indiana

41 with jurisdiction over the child who is the subject of the adoption

42 approves the expenses after determining that:

- 43 (1) the expenses are not being offered as an inducement to
- 44 proceed with an adoption; and
- 45 (2) failure to make the payments may seriously jeopardize the
- 46 health of either the child or the mother of the child and the direct
- 47 relationship is documented by a licensed social worker or the
- 48 attending physician.

49 **(d) The payment limitation under subsection (c) applies to the**

50 **total amount paid under subsection (b)(5) through (b)(9) in**

51 **connection with an adoption from all prospective adoptive parents,**

1 **attorneys, and licensed child placing agencies.**

2 ~~(d)~~ (e) An attorney or licensed child placing agency shall inform a
3 birth mother of the penalties for committing adoption deception under
4 section 9.5 of this chapter before the attorney or agency transfers a
5 payment for adoption related expenses under subsection (b) in relation
6 to the birth mother.

7 ~~(e)~~ (f) The limitations in this section apply regardless of the state or
8 country in which the adoption is finalized.

9 SECTION 19. IC 35-46-1-9.5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.5. A person who is a
11 birth mother, or a woman who holds herself out to be a birth mother,
12 and who knowingly or intentionally benefits from adoption related
13 expenses paid:

14 (1) when the person knows or should have known that the person
15 is not pregnant;

16 (2) by or on behalf of a prospective adoptive parent who is
17 unaware that at the same time another prospective adoptive parent
18 is also ~~incurring~~ **paying** adoption related expenses described
19 under section 9(b) of this chapter in an effort to adopt the same
20 child; or

21 (3) when the person does not intend to make an adoptive
22 placement;

23 commits adoption deception, a Class A misdemeanor. In addition to
24 any other penalty imposed under this section, a court may order the
25 person who commits adoption deception to make restitution to a
26 prospective adoptive parent, attorney, or licensed child placing agency
27 that incurs an expense as a result of the offense.

28 SECTION 20. IC 35-46-1-21 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2007]: **Sec. 21. (a) Only a person that is an**
31 **attorney licensed to practice law or a child placing agency licensed**
32 **under the laws of any state or the District of Columbia may place**
33 **a paid advertisement or paid listing of the person's telephone**
34 **number, on the person's own behalf, in a telephone directory that:**

35 (1) a child is offered or wanted for adoption; or

36 (2) the person is able to place, locate, or receive a child for
37 adoption.

38 (b) A person that publishes a telephone directory that is
39 distributed in Indiana:

40 (1) shall include, at the beginning of any classified heading for
41 adoption and adoption services, a statement that informs
42 directory users that only attorneys licensed to practice law
43 and licensed child placing agencies may legally provide
44 adoption services under Indiana law; and

45 (2) may publish an advertisement described in subsection (a)
46 in the telephone directory only if the advertisement contains
47 the following:

48 (A) For an attorney licensed to practice law, the person's
49 attorney number.

50 (B) For a child placing agency licensed under the laws of
51 any state or the District of Columbia, the number on the

- 1 **person's child placing agency license.**
- 2 **(c) A person who knowingly or intentionally violates subsection**
- 3 **(a) commits unauthorized adoption advertising, a Class A**
- 4 **misdemeanor.**
- 5 SECTION 21. IC 35-46-1-22 IS ADDED TO THE INDIANA
- 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2007]: **Sec. 22. (a) As used in this section,**
- 8 **"adoption services" means at least one (1) of the following services**
- 9 **that is provided for compensation, an item of value, or**
- 10 **reimbursement, either directly or indirectly, and provided either**
- 11 **before or after the services are rendered:**
- 12 **(1) Arranging for the placement of a child.**
- 13 **(2) Identifying a child for adoption.**
- 14 **(3) Matching adoptive parents with biological parents.**
- 15 **(4) Arranging or facilitating an adoption.**
- 16 **(5) Taking or acknowledging consents or surrenders for**
- 17 **termination of parental rights for adoption purposes.**
- 18 **(6) Performing background studies on:**
- 19 **(A) a child who is going to be adopted; or**
- 20 **(B) adoptive parents.**
- 21 **(7) Making determinations concerning the best interests of a**
- 22 **child and the appropriateness in placing the child for**
- 23 **adoption.**
- 24 **(8) Post placement monitoring of a child before the child is**
- 25 **adopted.**
- 26 **(b) As used in this section, the term "adoption services" does not**
- 27 **include the following:**
- 28 **(1) Legal services provided by an attorney licensed in Indiana.**
- 29 **(2) Adoption related services provided by a governmental**
- 30 **entity or a person appointed to perform an investigation by**
- 31 **the court.**
- 32 **(3) General education and training on adoption issues.**
- 33 **(4) Post adoption services, including supportive services to**
- 34 **families to promote the well-being of members of adoptive**
- 35 **families or birth families.**
- 36 **(c) This section does not apply to the following persons:**
- 37 **(1) The department of child services, an agency or person**
- 38 **authorized to act on behalf of the department of child**
- 39 **services, or a similar agency in another state.**
- 40 **(2) The division of family resources, an agency or person**
- 41 **authorized to act on behalf of the division of family resources,**
- 42 **or a similar agency in another state.**
- 43 **(3) A county office of family and children in Indiana or a**
- 44 **similar county office in another state.**
- 45 **(4) A child placing agency licensed under the laws of Indiana**
- 46 **or another state.**
- 47 **(5) An attorney licensed to practice law in Indiana or another**
- 48 **state.**
- 49 **(6) A prospective biological parent or adoptive parent acting**
- 50 **on the individual's own behalf.**
- 51 **(d) A person who knowingly or intentionally provides, engages**

1 **in, or facilitates adoption services to a birth parent or prospective**
2 **adoptive parent who resides in Indiana commits unauthorized**
3 **adoption facilitation, a Class A misdemeanor.**

4 SECTION 22. [EFFECTIVE JULY 1, 2007] **IC 35-46-1-21 and**
5 **IC 35-46-1-22, both as added by this act, apply only to crimes**
6 **committed after June 30, 2007.**

(Reference is to ESB 534 as printed March 21, 2007.)

Conference Committee Report
on
Engrossed Senate Bill 534

Signed by:

Senator Lubbers
Chairperson

Representative Battles

Senator Broden

Representative Frizzell

Senate Conferees

House Conferees