



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3628

Introduced 2/24/2005, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

See Index

Amends the Child Care Act of 1969. Defines "adoption services" and "unlicensed pre-adoptive and adoptive home". Provides that any agency, person, group of persons, association, organization, corporation, institution, center, or group engaging in adoption services for compensation must be licensed by the Department of Children and Family Services as a child welfare agency. Provides that the Department shall not issue or renew the license of any child welfare agency providing adoption services, unless that agency (i) is officially recognized by the United States Internal Revenue Service as a tax-exempt organization and (ii) is in compliance with all of the standards necessary to maintain its status as a tax-exempt organization. Adds provisions concerning disclosures, a parent training program, an annual report, documents concerning waivers, preferential treatment, and other requirements. Requires the Department to establish a complaint registry and a toll-free telephone number and to post registry information on its website to assist in the monitoring of child welfare agencies providing adoption services. Further requires the Department to adopt rules concerning the complaint policies and procedures of child welfare agencies that provide adoption services. Makes changes concerning child care facility and child welfare agency advertising. Amends the Adoption Compensation Prohibition Act. Provides that the fees, wages, salaries, or other compensation of any description paid to those persons or entities acting on behalf of a child welfare agency providing adoption services shall not be unreasonably high in relation to the services actually rendered. Provides that the Department of Children and Family Services may adopt rules setting forth the criteria to determine what constitutes unreasonably high fees and compensation. Amends the Adoption Act to refer to the provision of adoption services. Makes other changes.

LRB094 10953 RAS 41538 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Sections 2, 2.05, 2.08, 4, 7, 11, 11.1, and 12 and by
6 adding Sections 2.24, 2.25, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 8.3,
7 9.1a, and 9.1b as follows:

8 (225 ILCS 10/2) (from Ch. 23, par. 2212)

9 Sec. 2. Terms used in this Act, unless the context
10 otherwise requires, have the meanings ascribed to them in
11 Sections 2.01 through 2.25 ~~2.21~~.

12 (Source: P.A. 86-278; 86-386.)

13 (225 ILCS 10/2.05) (from Ch. 23, par. 2212.05)

14 Sec. 2.05. "Facility for child care" or "child care
15 facility" means any person, group of persons, agency,
16 association, ~~or~~ organization, corporation, institution,
17 center, or group, whether established for gain or otherwise,
18 who or which receives or arranges for care or placement of one
19 or more children, unrelated to the operator of the facility,
20 apart from the parents, with or without the transfer of the
21 right of custody in any facility as defined in this Act,
22 established and maintained for the care of children. "Child
23 care facility" includes a relative who is licensed as a foster
24 family home under Section 4 of this Act.

25 (Source: P.A. 89-21, eff. 7-1-95.)

26 (225 ILCS 10/2.08) (from Ch. 23, par. 2212.08)

27 Sec. 2.08.

28 "Child welfare agency" means a public or private child care
29 facility, receiving any child or children for the purpose of
30 placing or arranging for the placement or care of the child or

1 children in foster family homes, unlicensed pre-adoptive and
2 adoptive homes, or other facilities for child care, apart from
3 the custody of the child's or children's parents. The term
4 "child welfare agency" includes all agencies established and
5 maintained by a municipality or other political subdivision of
6 the State of Illinois to protect, guard, train or care for
7 children outside their own homes and all agencies, persons,
8 groups of persons, associations, organizations, corporations,
9 institutions, centers, or groups providing adoption services,
10 but does not include any circuit court or duly appointed
11 juvenile probation officer or youth counselor of the court, who
12 receives and places children under an order of the court.

13 (Source: P.A. 76-63.)

14 (225 ILCS 10/2.24 new)

15 Sec. 2.24. "Adoption services" includes any one or more of
16 the following: (i) arranging for the placement of or placing
17 out a child, (ii) identifying a child for adoption, (iii)
18 matching adoptive parents with birth parents, (iv) arranging or
19 facilitating an adoption, (v) securing consents or surrenders
20 for termination of parental rights for purposes of adoption,
21 (vi) performing background studies on a child or adoptive
22 parents, (vii) making determinations of the best interests of a
23 child and the appropriateness of adoptive placement for the
24 child, (viii) post-placement monitoring of a child prior to
25 adoption, or (ix) where made necessary by disruption before
26 final adoption, assuming custody and providing child care or
27 other social services pending an alternative placement.
28 "Adoption services" does not include the provision of legal
29 services by a licensed attorney, unless that attorney is
30 providing adoption services as defined in this Section, in a
31 particular case.

32 (225 ILCS 10/2.25 new)

33 Sec. 2.25. "Unlicensed pre-adoptive and adoptive home"
34 means any unlicensed home that receives a child or children for

1 the purpose of adopting the child or children.

2 (225 ILCS 10/4) (from Ch. 23, par. 2214)

3 Sec. 4. License requirement; application; notice.

4 (a) Any person, group of persons or corporation who or
5 which receives children or arranges for care or placement of
6 one or more children unrelated to the operator must apply for a
7 license to operate one of the types of facilities defined in
8 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
9 relative who receives a child or children for placement by the
10 Department on a full-time basis may apply for a license to
11 operate a foster family home as defined in Section 2.17 of this
12 Act.

13 (a-5) Any agency, person, group of persons, association,
14 organization, corporation, institution, center, or group
15 providing adoption services for any type of compensation or
16 thing of value, directly or indirectly, must be licensed by the
17 Department as a child welfare agency as defined in Section 2.08
18 of this Act. "Providing adoption services" as used in this Act,
19 includes facilitating or engaging in adoption services.

20 (b) Application for a license to operate a child care
21 facility must be made to the Department in the manner and on
22 forms prescribed by it. An application to operate a foster
23 family home shall include, at a minimum: a completed written
24 form; written authorization by the applicant and all adult
25 members of the applicant's household to conduct a criminal
26 background investigation; medical evidence in the form of a
27 medical report, on forms prescribed by the Department, that the
28 applicant and all members of the household are free from
29 communicable diseases or physical and mental conditions that
30 affect their ability to provide care for the child or children;
31 the names and addresses of at least 3 persons not related to
32 the applicant who can attest to the applicant's moral
33 character; and fingerprints submitted by the applicant and all
34 adult members of the applicant's household.

35 (c) The Department shall notify the public when a child

1 care institution, maternity center, or group home licensed by
2 the Department undergoes a change in (i) the range of care or
3 services offered at the facility, (ii) the age or type of
4 children served, or (iii) the area within the facility used by
5 children. The Department shall notify the public of the change
6 in a newspaper of general circulation in the county or
7 municipality in which the applicant's facility is or is
8 proposed to be located.

9 (d) If, upon examination of the facility and investigation
10 of persons responsible for care of children, the Department is
11 satisfied that the facility and responsible persons reasonably
12 meet standards prescribed for the type of facility for which
13 application is made, it shall issue a license in proper form,
14 designating on that license the type of child care facility
15 and, except for a child welfare agency, the number of children
16 to be served at any one time.

17 (e) The Department shall not issue or renew the license of
18 any child welfare agency providing adoption services, unless
19 the agency (i) is officially recognized by the United States
20 Internal Revenue Service as a tax-exempt organization
21 described in Section 501(c)(3) of the Internal Revenue Code of
22 1986 (or any successor provision of federal tax law) and (ii)
23 is in compliance with all of the standards necessary to
24 maintain its status as an organization described in Section
25 501(c)(3) of the Internal Revenue Code of 1986 (or any
26 successor provision of federal tax law). The Department shall
27 grant a grace period of 18 months from the effective date of
28 this amendatory Act of the 94th General Assembly for existing
29 child welfare agencies providing adoption services to obtain
30 501(c)(3) status.

31 (Source: P.A. 89-21, eff. 7-1-95; 90-90, eff. 7-11-97; 90-608,
32 eff. 6-30-98.)

33 (225 ILCS 10/7) (from Ch. 23, par. 2217)

34 Sec. 7. (a) The Department must prescribe and publish
35 minimum standards for licensing that apply to the various types

1 of facilities for child care defined in this Act and that are
2 equally applicable to like institutions under the control of
3 the Department and to foster family homes used by and under the
4 direct supervision of the Department. The Department shall seek
5 the advice and assistance of persons representative of the
6 various types of child care facilities in establishing such
7 standards. The standards prescribed and published under this
8 Act take effect as provided in the Illinois Administrative
9 Procedure Act, and are restricted to regulations pertaining to
10 the following matters and to any rules and regulations required
11 or permitted by any other Section of this Act:

12 (1) The operation and conduct of the facility and
13 responsibility it assumes for child care;

14 (2) The character, suitability and qualifications of
15 the applicant and other persons directly responsible for
16 the care and welfare of children served. All child day care
17 center licensees and employees who are required to report
18 child abuse or neglect under the Abused and Neglected Child
19 Reporting Act shall be required to attend training on
20 recognizing child abuse and neglect, as prescribed by
21 Department rules;

22 (3) The general financial ability and competence of the
23 applicant to provide necessary care for children and to
24 maintain prescribed standards;

25 (4) The number of individuals or staff required to
26 insure adequate supervision and care of the children
27 received. The standards shall provide that each child care
28 institution, maternity center, day care center, group
29 home, day care home, and group day care home shall have on
30 its premises during its hours of operation at least one
31 staff member certified in first aid, in the Heimlich
32 maneuver and in cardiopulmonary resuscitation by the
33 American Red Cross or other organization approved by rule
34 of the Department. Child welfare agencies shall not be
35 subject to such a staffing requirement. The Department may
36 offer, or arrange for the offering, on a periodic basis in

1 each community in this State in cooperation with the
2 American Red Cross, the American Heart Association or other
3 appropriate organization, voluntary programs to train
4 operators of foster family homes and day care homes in
5 first aid and cardiopulmonary resuscitation;

6 (5) The appropriateness, safety, cleanliness and
7 general adequacy of the premises, including maintenance of
8 adequate fire prevention and health standards conforming
9 to State laws and municipal codes to provide for the
10 physical comfort, care and well-being of children
11 received;

12 (6) Provisions for food, clothing, educational
13 opportunities, program, equipment and individual supplies
14 to assure the healthy physical, mental and spiritual
15 development of children served;

16 (7) Provisions to safeguard the legal rights of
17 children served;

18 (8) Maintenance of records pertaining to the
19 admission, progress, health and discharge of children,
20 including, for day care centers and day care homes, records
21 indicating each child has been immunized as required by
22 State regulations. The Department shall require proof that
23 children enrolled in a facility have been immunized against
24 Haemophilus Influenzae B (HIB);

25 (9) Filing of reports with the Department;

26 (10) Discipline of children;

27 (11) Protection and fostering of the particular
28 religious faith of the children served;

29 (12) Provisions prohibiting firearms on day care
30 center premises except in the possession of peace officers;

31 (13) Provisions prohibiting handguns on day care home
32 premises except in the possession of peace officers or
33 other adults who must possess a handgun as a condition of
34 employment and who reside on the premises of a day care
35 home;

36 (14) Provisions requiring that any firearm permitted

1 on day care home premises, except handguns in the
2 possession of peace officers, shall be kept in a
3 disassembled state, without ammunition, in locked storage,
4 inaccessible to children and that ammunition permitted on
5 day care home premises shall be kept in locked storage
6 separate from that of disassembled firearms, inaccessible
7 to children;

8 (15) Provisions requiring notification of parents or
9 guardians enrolling children at a day care home of the
10 presence in the day care home of any firearms and
11 ammunition and of the arrangements for the separate, locked
12 storage of such firearms and ammunition.

13 (b) If, in a facility for general child care, there are
14 children diagnosed as mentally ill, mentally retarded or
15 physically handicapped, who are determined to be in need of
16 special mental treatment or of nursing care, or both mental
17 treatment and nursing care, the Department shall seek the
18 advice and recommendation of the Department of Human Services,
19 the Department of Public Health, or both Departments regarding
20 the residential treatment and nursing care provided by the
21 institution.

22 (c) The Department shall investigate any person applying to
23 be licensed as a foster parent to determine whether there is
24 any evidence of current drug or alcohol abuse in the
25 prospective foster family. The Department shall not license a
26 person as a foster parent if drug or alcohol abuse has been
27 identified in the foster family or if a reasonable suspicion of
28 such abuse exists, except that the Department may grant a
29 foster parent license to an applicant identified with an
30 alcohol or drug problem if the applicant has successfully
31 participated in an alcohol or drug treatment program, self-help
32 group, or other suitable activities.

33 (d) The Department, in applying standards prescribed and
34 published, as herein provided, shall offer consultation
35 through employed staff or other qualified persons to assist
36 applicants and licensees in meeting and maintaining minimum

1 requirements for a license and to help them otherwise to
2 achieve programs of excellence related to the care of children
3 served. Such consultation shall include providing information
4 concerning education and training in early childhood
5 development to providers of day care home services. The
6 Department may provide or arrange for such education and
7 training for those providers who request such assistance.

8 (e) The Department shall distribute copies of licensing
9 standards to all licensees and applicants for a license. Each
10 licensee or holder of a permit shall distribute copies of the
11 appropriate licensing standards and any other information
12 required by the Department to child care facilities under its
13 supervision. Each licensee or holder of a permit shall maintain
14 appropriate documentation of the distribution of the
15 standards. Such documentation shall be part of the records of
16 the facility and subject to inspection by authorized
17 representatives of the Department.

18 (f) The Department shall prepare summaries of day care
19 licensing standards. Each licensee or holder of a permit for a
20 day care facility shall distribute a copy of the appropriate
21 summary and any other information required by the Department,
22 to the legal guardian of each child cared for in that facility
23 at the time when the child is enrolled or initially placed in
24 the facility. The licensee or holder of a permit for a day care
25 facility shall secure appropriate documentation of the
26 distribution of the summary and brochure. Such documentation
27 shall be a part of the records of the facility and subject to
28 inspection by an authorized representative of the Department.

29 (g) The Department shall distribute to each licensee and
30 holder of a permit copies of the licensing or permit standards
31 applicable to such person's facility. Each licensee or holder
32 of a permit shall make available by posting at all times in a
33 common or otherwise accessible area a complete and current set
34 of licensing standards in order that all employees of the
35 facility may have unrestricted access to such standards. All
36 employees of the facility shall have reviewed the standards and

1 any subsequent changes. Each licensee or holder of a permit
2 shall maintain appropriate documentation of the current review
3 of licensing standards by all employees. Such records shall be
4 part of the records of the facility and subject to inspection
5 by authorized representatives of the Department.

6 (h) Any standards involving physical examinations,
7 immunization, or medical treatment shall include appropriate
8 exemptions for children whose parents object thereto on the
9 grounds that they conflict with the tenets and practices of a
10 recognized church or religious organization, of which the
11 parent is an adherent or member, and for children who should
12 not be subjected to immunization for clinical reasons.

13 (Source: P.A. 89-274, eff. 1-1-96; 89-507, eff. 7-1-97; 89-648,
14 eff. 8-9-96; 90-14, eff. 7-1-97.)

15 (225 ILCS 10/7.4 new)

16 Sec. 7.4. Disclosures.

17 (a) Every child welfare agency providing adoption services
18 and licensed by the Department, shall provide to all
19 prospective clients and to the public, written disclosures with
20 respect to its adoption services, policies, and practices,
21 including general eligibility criteria, fees, and the mutual
22 rights and responsibilities of clients, including birth
23 parents and adoptive parents. The written disclosure shall be
24 posted on any website maintained by the child welfare agency
25 that relates to adoption services. The Department shall adopt
26 rules relating to the contents of the written disclosures.

27 (b) Every licensed child welfare agency providing adoption
28 services shall provide to all applicants, prior to application,
29 a written schedule of estimated fees, expenses, and refund
30 policies. Every child welfare agency providing adoption
31 services shall have a written policy that shall be part of its
32 standard adoption contract and state that it will not charge
33 additional fees and expenses beyond those disclosed in the
34 adoption contract unless additional fees are reasonably
35 required by the circumstances and are disclosed to the adoptive

1 parents or parent before they are incurred. The Department
2 shall adopt rules relating to the contents of the written
3 schedule and policy.

4 (c) Every licensed child welfare agency providing adoption
5 services must make full and fair disclosure to its clients,
6 including birth parents and adoptive parents, of all
7 circumstances material to the placement of a child for
8 adoption. The Department shall adopt rules necessary for the
9 implementation and regulation of the requirements of this
10 subsection (c).

11 (225 ILCS 10/7.5 new)

12 Sec. 7.5. Adoptive parent training program. Every licensed
13 child welfare agency providing adoption services shall provide
14 prospective adoptive parents with a training program that
15 includes counseling and guidance for the purpose of promoting a
16 successful adoption before any child is placed with the parents
17 for adoption. The Department shall adopt rules concerning
18 minimum hours, content, and agency documentation of the
19 training.

20 (225 ILCS 10/7.6 new)

21 Sec. 7.6. Professional requirements for child welfare
22 agencies providing adoption services. Every licensed child
23 welfare agency providing adoption services must have a
24 sufficient number of appropriately trained and qualified
25 personnel, sufficient financial resources, appropriate
26 organizational structure, and appropriate procedures to enable
27 the agency to provide adoption services in a professional
28 manner. The Department shall adopt rules establishing the
29 minimum adequate assets required for each child welfare agency,
30 the minimum training and educational background of personnel
31 employed by an agency, and the minimum liability insurance
32 required by the Department for an agency.

33 (225 ILCS 10/7.7 new)

1 Sec. 7.7. Annual report. Every licensed child welfare
2 agency providing adoption services shall file an annual report
3 with the Department and with the Attorney General on forms and
4 on a date prescribed by the Department. The annual report shall
5 be made available to the public by the Department and by the
6 agency. The annual report shall include all of the following
7 matters and all other matters required by the Department:

8 (1) A balance sheet and a statement of income and
9 expenses for the year, certified by an independent public
10 accountant;

11 (2) Information concerning the placements made by the
12 agency during the year, including, but not limited to, the
13 number of adoptive parents and birth parents who sought
14 services from the agency during the year, and the year-end
15 status of each case;

16 (3) Any instance during the year in which the agency
17 lost the right to provide adoption services in any State or
18 country, had its license suspended for cause, or been the
19 subject of other negative sanctions by any court,
20 governmental agency, or regulatory body;

21 (4) Any actions related to licensure that were
22 initiated against the agency during the year by a licensing
23 or accrediting body;

24 (5) Any pending investigations by federal or State
25 authorities;

26 (6) Any criminal charges, child abuse charges,
27 malpractice complaints, or lawsuits against the agency or
28 any of its employees, officers, or directors related to the
29 provision of adoption services and the basis or disposition
30 of the actions;

31 (7) Any instance in the year where the agency was found
32 guilty of, or pled guilty to, any crime or civil or
33 administrative violation under federal, State, or foreign
34 law that relates to the provision of adoption services;

35 (8) Any instance in the year where any employee,
36 officer, or director of the agency was found guilty of any

1 crime or civil or administrative violation under federal,
2 State, or foreign law; and

3 (9) Any civil or administrative proceeding instituted
4 by, or involving, the agency during the year.

5 Information disclosed in accordance with this Section
6 shall be subject to the applicable confidentiality
7 requirements of this Act and the Adoption Act.

8 (225 ILCS 10/7.8 new)

9 Sec. 7.8. Certain waivers prohibited. Licensed child
10 welfare agencies providing adoption services shall not require
11 birth or adoptive parents to sign any document that purports to
12 waive all claims against an agency even in the event of
13 negligence on the part of the agency. An agency may require
14 adoptive parents to assume risks that are not within the
15 reasonable control of the agency. The Department may adopt
16 rules governing the nature of these assumptions of risk.

17 (225 ILCS 10/7.9 new)

18 Sec. 7.9. Preferential treatment in child placement
19 prohibited. No licensed child welfare agency providing
20 adoption services shall give preferential treatment to its
21 board members, contributors, volunteers, employees, agents,
22 consultants, or independent contractors or to their relatives
23 with respect to the placement of a child or any matters
24 relating to adoption services.

25 (225 ILCS 10/8.3 new)

26 Sec. 8.3. Tax exempt agency. The Department shall revoke
27 or refuse to renew the license of any child welfare agency
28 providing adoption services that is not (i) officially
29 recognized by the United States Internal Revenue Service as a
30 tax-exempt organization described in Section 501(c)(3) of the
31 Internal Revenue Code of 1986 (or any successor provision of
32 federal tax law) and (ii) in compliance with all of the
33 standards necessary to maintain its status as an organization

1 described in Section 501(c)(3) of the Internal Revenue Code of
2 1986 (or any successor provision of federal tax law). The
3 Department shall grant a grace period of 18 months from the
4 effective date of this amendatory Act of the 94th General
5 Assembly for existing child welfare agencies providing
6 adoption services to obtain 501(c)(3) status.

7 (225 ILCS 10/9.1a new)

8 Sec. 9.1a. Complaint registry.

9 (a) The Department shall establish a complaint registry to
10 assist in the monitoring of licensed child welfare agencies
11 providing adoption services, which shall record and track the
12 resolution and disposition of substantiated licensing
13 violations.

14 (b) The Department shall establish and maintain a statewide
15 toll-free telephone number and post information on its website
16 where the public can access information contained in the
17 complaint registry, as it pertains to the past history and
18 record of any licensed child welfare agency providing adoption
19 services. This information shall include, but shall not be
20 limited to, Department substantiated licensing complaints
21 against a child welfare agency providing adoption services and
22 Department findings of any license violations against a child
23 welfare agency providing adoption services.

24 (c) Information disclosed in accordance with this Section
25 shall be subject to the applicable confidentiality
26 requirements of this Act and the Adoption Act.

27 (225 ILCS 10/9.1b new)

28 Sec. 9.1b. Complaint procedures. All child welfare
29 agencies providing adoption services shall be required by the
30 Department to have complaint policies and procedures that shall
31 be provided in writing to their prospective clients, including
32 birth parents and adoptive parents, at the earliest time
33 possible, prior to performing any services and prior to
34 entering into any contract with the clients. The Department

1 shall adopt rules that describe the complaint procedures
2 required by each agency. These rules shall include without
3 limitation prompt complaint response time, recording of the
4 complaints, prohibition of agency retaliation against the
5 person making the complaint, and agency reporting of all
6 complaints to the Department in a timely manner.

7 (225 ILCS 10/11) (from Ch. 23, par. 2221)

8 Sec. 11. Whenever the Department is advised, or has reason
9 to believe, that any person, group of persons or corporation is
10 operating a child welfare agency or a child care facility
11 without a license or permit, it shall make an investigation to
12 ascertain the facts. If the Department is denied access, it
13 shall request intervention of local, county or State law
14 enforcement agencies to seek an appropriate court order or
15 warrant to examine the premises. A person or entity preventing
16 the Department from carrying out its duties under this Section
17 shall be guilty of a violation of this Act and shall be subject
18 to such penalties related thereto. If it finds that the child
19 welfare agency or child care facility is being, or has operated
20 without a license or permit, it shall report the results of its
21 investigation to the Attorney General, and to the appropriate
22 State's Attorney for investigation and, if appropriate,
23 prosecution.

24 Operating a child welfare agency or child care facility
25 without a license constitutes a Class A misdemeanor, followed
26 by a business offense, if the operator continues to operate the
27 facility and no effort is made to obtain a license. The
28 business offense fine shall not exceed \$10,000 and each day of
29 a violation is a separate offense.

30 (Source: P.A. 85-215.)

31 (225 ILCS 10/11.1) (from Ch. 23, par. 2221.1)

32 Sec. 11.1. Whenever ~~Upon request of the Director, the~~
33 ~~Attorney General or the State's Attorney of the county in which~~
34 ~~the violation occurred, shall initiate injunction proceedings~~

1 ~~whenever~~ it appears that any person, group of persons, ~~or~~
2 corporation, agency, association, organization, institution,
3 center, or group is engaged or about to engage in any acts or
4 practices which constitute or will constitute a violation of
5 this Act or any rule or regulation prescribed under authority
6 thereof, the Department shall inform the Attorney General or
7 the State's Attorney of the appropriate county, who may
8 initiate injunction proceedings. Upon a proper showing, any
9 circuit court may enter a permanent or preliminary injunction
10 or temporary restraining order without bond to enforce this Act
11 or any rule or regulation prescribed thereunder in addition to
12 the penalties and other remedies provided in this Act.

13 (Source: P.A. 84-548.)

14 (225 ILCS 10/12) (from Ch. 23, par. 2222)

15 Sec. 12. Advertisements.

16 (a) In this Section:

17 "Advertise" means communication by any public medium
18 originating in this State, including by Internet, newspaper,
19 periodical telephone book listing, outdoor advertising sign,
20 radio, or television.

21 (b) A child care facility or child welfare agency licensed
22 or operating under a permit issued by the Department may
23 publish advertisements for the services that the facility is
24 specifically licensed or issued a permit under this Act to
25 provide. No person, group of persons, agency, association,
26 organization, corporation, institution, center, or group,
27 unless licensed or operating under a permit issued by the
28 Department as a child care facility or child welfare agency,
29 may advertise or cause to be published any advertisement
30 offering, soliciting, or promising to perform adoption
31 services as defined in Section 2.24 of this Act or to otherwise
32 arrange for the care or placement of a child.

33 (c) Every advertisement under this Section shall include
34 the Department-issued license number of the facility or agency.

35 (d) Any licensed child welfare agency providing adoption

1 services which causes to be published an advertisement
2 containing misrepresentations concerning adoption services or
3 circumstances material to the placement of a child for adoption
4 is guilty of a Class A misdemeanor and shall be subject to a
5 fine not to exceed \$10,000 and 9 months imprisonment for each
6 advertisement.

7 (e) This Section does not apply to a prospective adoptive
8 parent acting on his or her own behalf or to a licensed
9 attorney advertising his or her availability to provide legal
10 services relating to adoption, but not adoption services, as
11 permitted by law. A child care facility licensed or operating
12 under a permit issued by the Department may publish
13 advertisements of the services for which it is specifically
14 licensed or issued a permit under this Act. No person, unless
15 licensed or holding a permit as a child care facility, may
16 cause to be published any advertisement soliciting a child or
17 children for care or placement or offering a child or children
18 for care or placement.

19 (Source: P.A. 76-63.)

20 Section 10. The Adoption Compensation Prohibition Act is
21 amended by changing Sections 1, 2, 3, 4, and 4.1 and by adding
22 Section 4.9 as follows:

23 (720 ILCS 525/1) (from Ch. 40, par. 1701)

24 Sec. 1. No person and no agency, association, corporation,
25 institution, society, or other organization, except a child
26 welfare agency as defined by the Child Care Act of 1969, as now
27 or hereafter amended, shall request, receive or accept any
28 compensation or thing of value, directly or indirectly, for
29 providing adoption services, as defined in Section 2.24 of the
30 Child Care Act of 1969, including placing out of a child.

31 (Source: P.A. 86-820.)

32 (720 ILCS 525/2) (from Ch. 40, par. 1702)

33 Sec. 2. No person shall pay or give any compensation or

1 thing of value, directly or indirectly, for providing adoption
2 services, as defined in Section 2.24 of the Child Care Act of
3 1969, including placing out of a child to any person or to any
4 agency, association, corporation, institution, society, or
5 other organization except a child welfare agency as defined by
6 the Child Care Act of 1969, as now or hereafter amended.

7 (Source: P.A. 86-820.)

8 (720 ILCS 525/3) (from Ch. 40, par. 1703)

9 Sec. 3. Definitions. As used in this Act: ~~the term~~

10 "Placing ~~placing~~ out" means to arrange for the free care or
11 placement of a child in a family other than that of the child's
12 parent, stepparent, grandparent, brother, sister, uncle or
13 aunt or legal guardian, for the purpose of adoption or for the
14 purpose of providing care.

15 "Adoption services" has the meaning given that term in the
16 Child Care Act of 1969.

17 (Source: Laws 1955, p. 1881.)

18 (720 ILCS 525/4) (from Ch. 40, par. 1704)

19 Sec. 4. The provisions of this Act shall not be construed
20 to prevent the payment of salaries or other compensation by a
21 licensed child welfare agency providing adoption services, as
22 that term is defined by the Child Care Act of 1969, as now or
23 hereafter amended, to the officers, ~~or~~ employees, agents,
24 contractors, or any other persons acting on behalf of the child
25 welfare agency, provided that:

26 (1) the fees, wages, salaries, or other compensation of
27 any description paid to the officers, employees,
28 contractors, or any other person acting on behalf of a
29 child welfare agency providing adoption services shall not
30 be unreasonably high in relation to the services actually
31 rendered. Every form of compensation shall be taken into
32 account in determining whether fees, wages, salaries, or
33 compensation is unreasonably high, including, but not
34 limited to, salary, bonuses, deferred and noncash

1 compensation, retirement funds, medical and liability
2 insurance, loans, and other benefits such as the use,
3 purchase, or lease of vehicles, expense accounts, and food,
4 housing, and clothing allowances;

5 (2) any earnings, if applicable, or compensation paid
6 to the child welfare agency's directors, stockholders, or
7 members of its governing body shall not be unreasonably
8 high in relation to the services rendered; and

9 (3) persons providing adoption services for a child
10 welfare agency may be compensated only for services
11 actually rendered and only on a fee-for-service, hourly
12 wage, or salary basis.

13 The Department of Children and Family Services may adopt
14 rules setting forth the criteria to determine what constitutes
15 unreasonably high fees and compensation as those terms are used
16 in this Section. Every licensed child welfare agency providing
17 adoption services shall provide the Department of Children and
18 Family Services and the Attorney General with a report, on an
19 annual basis, providing a description of the fees, wages,
20 salaries and other compensation described in paragraphs (1),
21 (2), and (3) of this Section.

22 The provisions of this Act shall not ~~thereof; nor shall it~~
23 be construed to prevent the payment by a person with whom a
24 child has been placed out of reasonable and actual medical fees
25 or hospital charges for services rendered in connection with
26 the birth of such child, if such payment is made to the
27 physician or hospital who or which rendered the services or to
28 the biological ~~natural~~ mother of the child or to prevent the
29 receipt of such payment by such physician, hospital, or mother.

30 (Source: P.A. 86-820.)

31 (720 ILCS 525/4.1) (from Ch. 40, par. 1704.1)

32 (Text of Section before amendment by P.A. 93-1063)

33 Sec. 4.1. Payment of certain expenses.

34 (a) A person or persons who have filed or intend to file a
35 petition to adopt a child under the Adoption Act shall be

1 permitted to pay the reasonable living expenses of the
2 biological parents of the child sought to be adopted, in
3 addition to those expenses set forth in Section 4, only in
4 accordance with the provisions of this Section.

5 "Reasonable living expenses" means the reasonable costs of
6 lodging, food, and clothing for the biological parents during
7 the period of the biological mother's pregnancy and for no more
8 than 30 days after the birth of the child. The term does not
9 include expenses for lost wages, gifts, educational expenses,
10 or other similar expenses of the biological parents.

11 (b) The petitioners may seek leave of the court to pay the
12 reasonable living expenses of the biological parents. They
13 shall be permitted to pay the reasonable living expenses of the
14 biological parents only upon prior order of the circuit court
15 where the petition for adoption will be filed, or if the
16 petition for adoption has been filed in the circuit court where
17 the petition is pending.

18 (c) Payments under this Section shall be permitted only in
19 those circumstances where there is a demonstrated need for the
20 payment of such expenses to protect the health of the
21 biological parents or the health of the child sought to be
22 adopted.

23 (d) Payment of their reasonable living expenses, as
24 provided in this Section, shall not obligate the biological
25 parents to place the child for adoption. In the event the
26 biological parents choose not to place the child for adoption,
27 the petitioners shall have no right to seek reimbursement, from
28 the biological parents or from any relative of the biological
29 parents, of moneys paid to, or on behalf of, the biological
30 parents pursuant to a court order under this Section.

31 (e) Within 14 days after the completion of all payments for
32 reasonable living expenses of the biological parents under this
33 Section, the petitioners shall present a final accounting of
34 all those expenses to the court. The accounting shall include
35 vouchers for all moneys expended, copies of all checks written,
36 and receipts for all cash payments. The accounting shall also

1 include the verified statements of the petitioners, each
2 attorney of record, and the biological parents or parents to
3 whom or on whose behalf the payments were made attesting to the
4 accuracy of the accounting.

5 (f) If the placement of a child for adoption is made in
6 accordance with the Interstate Compact on the Placement of
7 Children, and if the sending state permits the payment of any
8 expenses of biological parents that are not permitted under
9 this Act, then the payment of those expenses shall not be a
10 violation of this Act. In that event, the petitioners shall
11 file an accounting of all payments of the expenses of the
12 biological parent or parents with the court in which the
13 petition for adoption is filed or is to be filed. The
14 accounting shall include a copy of the statutory provisions of
15 the sending state that permit payments in addition to those
16 permitted by this Act and a copy of all orders entered in the
17 sending state that relate to expenses of the biological parents
18 paid by the petitioners in the sending state.

19 (g) The petitioners shall be permitted to pay the
20 reasonable attorney's fees of the biological parents' attorney
21 in connection with proceedings under this Act or in connection
22 with proceedings for the adoption of the child. The attorney's
23 fees shall be paid only after a petition seeking leave to pay
24 those fees is filed with the court in which the adoption
25 proceeding is filed or to be filed. The court shall review the
26 petition for leave to pay attorney's fees, and if the court
27 determines that the fees requested are reasonable, the court
28 shall permit the petitioners to pay them. If the court
29 determines that the fees requested are not reasonable, the
30 court shall determine and set the reasonable attorney's fees of
31 the biological parents' attorney which may be paid by the
32 petitioners.

33 (h) The court may appoint a guardian ad litem for an unborn
34 child to represent the interests of the child in proceedings
35 under this Section.

36 (Source: P.A. 87-1129; 88-148.)

1 (Text of Section after amendment by P.A. 93-1063)

2 Sec. 4.1. Payment of certain expenses.

3 (a) A person or persons who have filed or intend to file a
4 petition to adopt a child under the Adoption Act shall be
5 permitted to pay the reasonable living expenses of the
6 biological parents of the child sought to be adopted, in
7 addition to those expenses set forth in Section 4, only in
8 accordance with the provisions of this Section.

9 "Reasonable living expenses" means the reasonable costs of
10 lodging, food, and clothing for the biological parents during
11 the period of the biological mother's pregnancy and for no more
12 than 30 days after the birth of the child. The term does not
13 include expenses for lost wages, gifts, educational expenses,
14 or other similar expenses of the biological parents.

15 (b) The petitioners may seek leave of the court to pay the
16 reasonable living expenses of the biological parents. They
17 shall be permitted to pay the reasonable living expenses of the
18 biological parents only upon prior order of the circuit court
19 where the petition for adoption will be filed, or if the
20 petition for adoption has been filed in the circuit court where
21 the petition is pending.

22 (c) Payments under this Section shall be permitted only in
23 those circumstances where there is a demonstrated need for the
24 payment of such expenses to protect the health of the
25 biological parents or the health of the child sought to be
26 adopted.

27 (d) Payment of their reasonable living expenses, as
28 provided in this Section, shall not obligate the biological
29 parents to place the child for adoption. In the event the
30 biological parents choose not to place the child for adoption,
31 the petitioners shall have no right to seek reimbursement, from
32 the biological parents or from any relative of the biological
33 parents, of moneys paid to, or on behalf of, the biological
34 parents pursuant to a court order under this Section.

35 (d-5) No person or entity shall offer, provide, or co-sign

1 a loan or any other credit accommodation, directly or
2 indirectly, with a biological parent or a relative of a
3 biological parent based on the contingency of a surrender or
4 placement of a child for adoption.

5 (e) Within 14 days after the completion of all payments for
6 reasonable living expenses of the biological parents under this
7 Section, the petitioners shall present a final accounting of
8 all those expenses to the court. The accounting shall include
9 vouchers for all moneys expended, copies of all checks written,
10 and receipts for all cash payments. The accounting shall also
11 include the verified statements of the petitioners, each
12 attorney of record, and the biological parents or parents to
13 whom or on whose behalf the payments were made attesting to the
14 accuracy of the accounting.

15 (f) If the placement of a child for adoption is made in
16 accordance with the Interstate Compact on the Placement of
17 Children, and if the sending state permits the payment of any
18 expenses of biological parents that are not permitted under
19 this Act, then the payment of those expenses shall not be a
20 violation of this Act. In that event, the petitioners shall
21 file an accounting of all payments of the expenses of the
22 biological parent or parents with the court in which the
23 petition for adoption is filed or is to be filed. The
24 accounting shall include a copy of the statutory provisions of
25 the sending state that permit payments in addition to those
26 permitted by this Act and a copy of all orders entered in the
27 sending state that relate to expenses of the biological parents
28 paid by the petitioners in the sending state.

29 (g) The petitioners shall be permitted to pay the
30 reasonable attorney's fees of the biological parents' attorney
31 in connection with proceedings under this Act or in connection
32 with proceedings for the adoption of the child. The attorney's
33 fees shall be paid only after a petition seeking leave to pay
34 those fees is filed with the court in which the adoption
35 proceeding is filed or to be filed. The court shall review the
36 petition for leave to pay attorney's fees, and if the court

1 determines that the fees requested are reasonable, the court
2 shall permit the petitioners to pay them. If the court
3 determines that the fees requested are not reasonable, the
4 court shall determine and set the reasonable attorney's fees of
5 the biological parents' attorney which may be paid by the
6 petitioners.

7 (h) The court may appoint a guardian ad litem for an unborn
8 child to represent the interests of the child in proceedings
9 under this Section.

10 (Source: P.A. 93-1063, eff. 6-1-05.)

11 (720 ILCS 525/4.9 new)

12 Sec. 4.9. Injunctive relief. Whenever it appears that any
13 person, agency, association, corporation, institution,
14 society, or other organization is engaged or about to engage in
15 any acts or practices that constitute or will constitute a
16 violation of this Act or any rule adopted under the authority
17 of this Act, the Department shall inform the Attorney General
18 and the State's Attorney of the appropriate county. Under such
19 circumstances, the Attorney General or the State's Attorney may
20 initiate injunction proceedings. Upon a proper showing, any
21 circuit court may enter a permanent or preliminary injunction
22 or temporary restraining order without bond to enforce this Act
23 or any rule adopted under this Act in addition to any other
24 penalties and other remedies provided in this Act.

25 Section 15. The Adoption Act is amended by changing
26 Sections 4.1 and 21 as follows:

27 (750 ILCS 50/4.1) (from Ch. 40, par. 1506)

28 Sec. 4.1. Except for children placed with relatives by the
29 Department of Children and Family Services pursuant to
30 subsection (b) of Section 7 of the Children and Family Services
31 Act, placements under this Act shall comply with the Child Care
32 Act of 1969 and the Interstate Compact on the Placement of
33 Children. Placements of children born outside the United States

1 or a territory thereof shall comply with rules promulgated by
2 the United States Department of Immigration and
3 Naturalization.

4 Rules promulgated by the Department of Children and Family
5 Services shall include but not be limited to the following:

6 (a) Any agency providing adoption services as defined in
7 Section 2.24 of the Child Care Act ~~which places such children~~
8 ~~for adoption~~ in this State:

9 (i) Shall be licensed in this State as a child welfare
10 agency as defined in Section 2.08 of the Child Care Act of
11 1969; or

12 (ii) Shall be licensed as a child placement agency in a
13 state which is a party to the Interstate Compact on the
14 Placement of Children; or

15 (iii) Shall be licensed as a child placement agency in
16 a country other than the United States or, if located in
17 such a country but not so licensed, shall provide
18 information such as a license or court document which
19 authorizes that agency to place children for adoption and
20 to establish that such agency has legal authority to place
21 children for adoption; or

22 (iv) Shall be a child placement agency which is so
23 licensed in a non-compact state, if such agency first files
24 with the Department of Children and Family Services a bond
25 with surety in the amount of \$5,000 for each such child to
26 ensure that such child shall not become a public charge
27 upon this State. Such bond shall remain in effect until a
28 judgment for adoption is entered with respect to such child
29 pursuant to this Act. The Department of Children and Family
30 Services may accept, in lieu of such bond, a written
31 agreement with such agency which provides that such agency
32 shall be liable for all costs associated with the placement
33 of such child in the event a judgement of adoption is not
34 entered, upon such terms and conditions as the Department
35 deems appropriate.

36 The rules shall also provide that any agency that places

1 children for adoption in this State may not, in any policy or
2 practice relating to the placement of children for adoption,
3 discriminate against any child or prospective adoptive parent
4 on the basis of race.

5 (b) As an alternative to requiring the bond provided for in
6 paragraph (a)(iv) of this Section, the Department of Children
7 and Family Services may require the filing of such a bond by
8 the individual or individuals seeking to adopt such a child
9 through placement of such child by a child placement agency
10 located in a state which is not a party to the Interstate
11 Compact on the Placement of Children.

12 (c) In the case of any foreign-born child brought to the
13 United States for adoption in this State, the following
14 preadoption requirements shall be met:

15 (1) Documentation that the child is legally free for
16 adoption prior to entry into the United States shall be
17 submitted.

18 (2) A medical report on the child, by authorized
19 medical personnel in the country of the child's origin,
20 shall be provided when such personnel are available.

21 (3) Verification that the adoptive family has been
22 licensed as a foster family home pursuant to the Child Care
23 Act of 1969, as now or hereafter amended, shall be
24 provided.

25 (4) A valid home study conducted by a licensed child
26 welfare agency that complies with guidelines established
27 by the United States Immigration and Naturalization
28 Service at 8 CFR 204.4(d)(2)(i), as now or hereafter
29 amended, shall be submitted. A home study is considered
30 valid if it contains:

31 (i) A factual evaluation of the financial,
32 physical, mental and moral capabilities of the
33 prospective parent or parents to rear and educate the
34 child properly.

35 (ii) A detailed description of the living
36 accommodations where the prospective parent or parents

1 currently reside.

2 (iii) A detailed description of the living
3 accommodations in the United States where the child
4 will reside, if known.

5 (iv) A statement or attachment recommending the
6 proposed adoption signed by an official of the child
7 welfare agency which has conducted the home study.

8 (5) The placing agency located in a non-compact state
9 or a family desiring to adopt through an authorized
10 placement party in a non-compact state or a foreign country
11 shall file with the Department of Children and Family
12 Services a bond with surety in the amount of \$5,000 as
13 protection that a foreign-born child accepted for care or
14 supervision not become a public charge upon the State of
15 Illinois.

16 (6) In lieu of the \$5,000 bond, the placement agency
17 may sign a binding agreement with the Department of
18 Children and Family Services to assume full liability for
19 all placements should, for any reason, the adoption be
20 disrupted or not be completed, including financial and
21 planning responsibility until the child is either returned
22 to the country of its origin or placed with a new adoptive
23 family in the United States and that adoption is finalized.

24 (7) Compliance with the requirements of the Interstate
25 Compact on the Placement of Children, when applicable,
26 shall be demonstrated.

27 (8) When a child is adopted in a foreign country and a
28 final, complete and valid Order of Adoption is issued in
29 that country, as determined by both the United States
30 Department of State and the United States Department of
31 Justice, this State shall not impose any additional
32 preadoption requirements. The adoptive family, however,
33 must comply with applicable requirements of the United
34 States Department of Immigration and Naturalization as
35 provided in 8 CFR 204.4 (d)(2)(ii), as now or hereafter
36 amended.

1 (d) The Department of Children and Family Services shall
2 maintain the office of Intercountry Adoption Coordinator,
3 shall maintain and protect the rights of families and children
4 participating in adoption of foreign born children, and shall
5 develop ongoing programs of support and services to such
6 families and children. The Intercountry Adoption Coordinator
7 shall determine that all preadoption requirements have been met
8 and report such information to the Department of Immigration
9 and Naturalization.

10 (Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-626, eff. 8-9-96.)

11 (750 ILCS 50/21) (from Ch. 40, par. 1526)

12 Sec. 21. Compensation for placing of children prohibited.

13 No person, agency, association, corporation, institution,
14 society or other organization, except a child welfare agency as
15 defined by the "Child Care Act", approved July 10, 1957, as now
16 or hereafter amended, shall receive or accept, or pay or give
17 any compensation or thing of value, directly or indirectly, for
18 providing adoption services, as that term is defined in the
19 Child Care Act of 1969, including placing out of a child as is
20 more specifically provided in "An Act to prevent the payment or
21 receipt of compensation for placing out children for adoption
22 or for the purpose of providing care", approved July 14, 1955,
23 as now or hereafter amended.

24 (Source: Laws, 1959, p. 1269.)

25 Section 95. No acceleration or delay. Where this Act makes
26 changes in a statute that is represented in this Act by text
27 that is not yet or no longer in effect (for example, a Section
28 represented by multiple versions), the use of that text does
29 not accelerate or delay the taking effect of (i) the changes
30 made by this Act or (ii) provisions derived from any other
31 Public Act.

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