

1 AN ACT concerning adoption.

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

4 Section 5. The Adoption Compensation Prohibition Act is
5 amended by changing Sections 3, 4, and 4.1 as follows:

6 (720 ILCS 525/3) (from Ch. 40, par. 1703)

7 Sec. 3. Definitions. As used in this Act:

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

10 "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 "Prospective adoptive parent" means a person or persons who
16 have filed or intend to file a petition to adopt a child under
17 the Adoption Act.

18 ~~"Adoption services" has the meaning given that term in the~~
19 ~~Child Care Act of 1969.~~

20 (Source: P.A. 94-586, eff. 8-15-05.)

21 (720 ILCS 525/4) (from Ch. 40, par. 1704)

22 Sec. 4. The provisions of this Act shall not be construed

1 to prevent the payment of salaries or other compensation by a
2 licensed child welfare agency providing adoption services, as
3 that term is defined by the Child Care Act of 1969, as now or
4 hereafter amended, to the officers, employees, agents,
5 contractors, or any other persons acting on behalf of the child
6 welfare agency, provided that such salaries and compensation
7 are consistent with subsection (a) of Section 14.5 of the Child
8 Care Act of 1969.

9 The provisions of this Act shall not be construed to
10 prevent the payment by a prospective adoptive parent ~~person~~
11 ~~with whom a child has been placed for adoption~~ of reasonable
12 and actual medical fees or hospital charges for services
13 rendered in connection with the birth of such child, if such
14 payment is made to the physician or hospital who or which
15 rendered the services or to the biological mother of the child
16 or to prevent the receipt of such payment by such physician,
17 hospital, or mother.

18 The provisions of this Act shall not be construed to
19 prevent a prospective adoptive parent from giving a gift or
20 gifts or other thing or things of value to a biological parent
21 provided that the total value of such gift or gifts or thing or
22 things of value does not exceed \$200.

23 (Source: P.A. 94-586, eff. 8-15-05.)

24 (720 ILCS 525/4.1) (from Ch. 40, par. 1704.1)

25 Sec. 4.1. Payment of certain expenses.

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

8 "Reasonable living expenses" means those expenses related
9 to activities of daily living and meeting basic needs,
10 including, but not limited to, lodging, food, and clothing for
11 the biological parents during the biological mother's
12 pregnancy and for no more than 120 days prior to the biological
13 mother's expected date of delivery and for no more than 60 days
14 after the birth of the child. The term does not include
15 expenses for lost wages, gifts, educational expenses, or other
16 similar expenses of the biological parents.

17 (b) (1) The prospective adoptive parents ~~petitioners~~ may
18 seek leave of the court to pay the reasonable living expenses
19 of the biological parents. They shall be permitted to pay the
20 reasonable living expenses of the biological parents only upon
21 prior order of the circuit court where the petition for
22 adoption will be filed, or if the petition for adoption has
23 been filed in the circuit court where the petition is pending.

24 (2) Notwithstanding clause (b)(1) of this Section, a
25 prospective adoptive parent may advance a maximum of \$1,000 for
26 reasonable birth parent living expenses without prior order of

1 court. The prospective adoptive parents shall present a final
2 accounting of all expenses to the court prior to the entry of a
3 final judgment order for adoption.

4 (3) If the court finds an accounting by the prospective
5 adoptive parents to be incomplete or deceptive or to contain
6 amounts which are unauthorized or unreasonable, the court may
7 order a new accounting or the repayment of amounts found to be
8 excessive or unauthorized or make any other orders it deems
9 appropriate.

10 (c) Payments under this Section shall be permitted only in
11 those circumstances where there is a demonstrated need for the
12 payment of such expenses to protect the health of the
13 biological parents or the health of the child sought to be
14 adopted.

15 (d) Payment of their reasonable living expenses, as
16 provided in this Section, shall not obligate the biological
17 parents to place the child for adoption. In the event the
18 biological parents choose not to place the child for adoption,
19 the prospective adoptive parents ~~petitioners~~ shall have no
20 right to seek reimbursement from the biological parents, or
21 from any relative or associate of the biological parents, of
22 moneys paid to, or on behalf of, the biological parents
23 pursuant to a court order under this Section.

24 (d-1) Notwithstanding subsection (d) of this Section, a
25 prospective adoptive parent may seek reimbursement of
26 reasonable living expenses from a person who receives such

1 payments only if the person who accepts payment of reasonable
2 living expenses before the child's birth, as described in
3 subsection (d) of this Section, knows that the person on whose
4 behalf he or she is accepting payment is not pregnant at the
5 time of the receipt of such payments or the person receives
6 reimbursement for reasonable living expenses simultaneously
7 from more than one prospective adoptive parent without the
8 knowledge of the prospective adoptive parent.

9 (d-5) No person or entity shall offer, provide, or co-sign
10 a loan or any other credit accommodation, directly or
11 indirectly, with a biological parent or a relative or associate
12 of a biological parent based on the contingency of a surrender
13 or placement of a child for adoption.

14 (e) Within 14 days after the completion of all payments for
15 reasonable living expenses of the biological parents under this
16 Section, the prospective adoptive parents ~~petitioners~~ shall
17 present a final accounting of all those expenses to the court.
18 ~~The accounting shall include vouchers for all moneys expended,~~
19 ~~copies of all checks written, and receipts for all cash~~
20 ~~payments.~~ The accounting shall also include the verified
21 statements of the prospective adoptive parents ~~petitioners~~,
22 each attorney of record, and the biological parents or parents
23 to whom or on whose behalf the payments were made attesting to
24 the accuracy of the accounting.

25 (f) If the placement of a child for adoption is made in
26 accordance with the Interstate Compact on the Placement of

1 Children, and if the sending state permits the payment of any
2 expenses of biological parents that are not permitted under
3 this Act, then the payment of those expenses shall not be a
4 violation of this Act. In that event, the prospective adoptive
5 parents ~~petitioners~~ shall file an accounting of all payments of
6 the expenses of the biological parent or parents with the court
7 in which the petition for adoption is filed or is to be filed.
8 The accounting shall include a copy of the statutory provisions
9 of the sending state that permit payments in addition to those
10 permitted by this Act and a copy of all orders entered in the
11 sending state that relate to expenses of the biological parents
12 paid by the prospective adoptive parents ~~petitioners~~ in the
13 sending state.

14 (g) The prospective adoptive parents ~~petitioners~~ shall be
15 permitted to pay the reasonable attorney's fees of a ~~the~~
16 biological parent's ~~parents'~~ attorney in connection with
17 proceedings under this Act or in connection with proceedings
18 for the adoption of the child if the amount of fees of the
19 attorney is \$1,000 or less. If the amount of attorney's fees of
20 each biological parent exceeds \$1,000, the ~~—The~~ attorney's
21 fees shall be paid only after a petition seeking leave to pay
22 those fees is filed with the court in which the adoption
23 proceeding is filed or to be filed. The court shall review the
24 petition for leave to pay attorney's fees, and if the court
25 determines that the fees requested are reasonable, the court
26 shall permit the petitioners to pay them. If the court

1 determines that the fees requested are not reasonable, the
2 court shall determine and set the reasonable attorney's fees of
3 the biological parents' attorney which may be paid by the
4 petitioners. The prospective adoptive parents shall present a
5 final accounting of all those fees to the court prior to the
6 entry of a final judgment order for adoption.

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 (i) The provisions of this Section apply to a person who is
11 a prospective adoptive parent ~~has filed or intends to file a~~
12 ~~petition to adopt a child under the Adoption Act.~~ This Section
13 does not apply to a licensed child welfare agency, as that term
14 is defined in the Child Care Act of 1969, whose payments are
15 governed by the Child Care Act of 1969 and the Department rules
16 adopted thereunder.

17 (Source: P.A. 93-1063, eff. 6-1-05; 94-586, eff. 8-15-05.)

18 Section 10. The Adoption Act is amended by changing Section
19 18.3a as follows:

20 (750 ILCS 50/18.3a) (from Ch. 40, par. 1522.3a)

21 Sec. 18.3a. Confidential intermediary.

22 (a) General purposes. Notwithstanding any other provision
23 of this Act, any adopted or surrendered person 21 years of age
24 or over, any adoptive parent or legal guardian of an adopted or

1 surrendered person under the age of 21, or any birth parent of
2 an adopted or surrendered person who is 21 years of age or over
3 may petition the court in any county in the State of Illinois
4 for appointment of a confidential intermediary as provided in
5 this Section for the purpose of exchanging medical information
6 with one or more mutually consenting biological relatives,
7 obtaining identifying information about one or more mutually
8 consenting biological relatives, or arranging contact with one
9 or more mutually consenting biological relatives.
10 Additionally, in cases where an adopted or surrendered person
11 is deceased, an adult child of the adopted or surrendered
12 person or his or her adoptive parents or surviving spouse may
13 file a petition under this Section and in cases where the birth
14 parent is deceased, an adult birth sibling of the adopted or
15 surrendered person or of the deceased birth parent may file a
16 petition under this Section for the purpose of exchanging
17 medical information with one or more mutually consenting
18 biological relatives of the adopted or surrendered person,
19 obtaining identifying information about one or more mutually
20 consenting biological relatives of the adopted or surrendered
21 person, or arranging contact with one or more mutually
22 consenting biological relatives of the adopted or surrendered
23 person. Beginning January 1, 2006, any adopted or surrendered
24 person 21 years of age or over; any adoptive parent or legal
25 guardian of an adopted or surrendered person under the age of
26 21; any birth parent, birth sibling, birth aunt, or birth uncle

1 of an adopted or surrendered person over the age of 21; any
2 surviving child, adoptive parent, or surviving spouse of a
3 deceased adopted or surrendered person who wishes to petition
4 the court for the appointment of a confidential intermediary
5 shall be required to accompany their petition with proof of
6 registration with the Illinois Adoption Registry and Medical
7 Information Exchange.

8 (b) Petition. Upon petition by an adopted or surrendered
9 person 21 years of age or over, an adoptive parent or legal
10 guardian of an adopted or surrendered person under the age of
11 21, or a birth parent of an adopted or surrendered person who
12 is 21 years of age or over, the court shall appoint a
13 confidential intermediary. Upon petition by an adult child,
14 adoptive parent or surviving spouse of an adopted or
15 surrendered person who is deceased, by an adult birth sibling
16 of an adopted or surrendered person whose common birth parent
17 is deceased and whose adopted or surrendered birth sibling is
18 21 years of age or over, or by an adult sibling of a birth
19 parent who is deceased, and whose surrendered child is 21 years
20 of age or over, the court may appoint a confidential
21 intermediary if the court finds that the disclosure is of
22 greater benefit than nondisclosure. The petition shall state
23 which biological relative or relatives are being sought and
24 shall indicate if the petitioner wants to do any one or more of
25 the following: exchange medical information with the
26 biological relative or relatives, obtain identifying

1 information from the biological relative or relatives, or to
2 arrange contact with the biological relative.

3 (c) Order. The order appointing the confidential
4 intermediary shall allow that intermediary to conduct a search
5 for the sought-after relative by accessing those records
6 described in subsection (g) of this Section.

7 (d) Fees and expenses. The court shall condition the
8 appointment of the confidential intermediary on the
9 petitioner's payment of the intermediary's fees and expenses in
10 advance of the commencement of the work of the confidential
11 intermediary.

12 (e) Eligibility of intermediary. The court may appoint as
13 confidential intermediary any person certified by the
14 Department of Children and Family Services as qualified to
15 serve as a confidential intermediary. Certification shall be
16 dependent upon the confidential intermediary completing a
17 course of training including, but not limited to, applicable
18 federal and State privacy laws.

19 (f) Confidential Intermediary Council. There shall be
20 established under the Department of Children and Family
21 Services a Confidential Intermediary Advisory Council. One
22 member shall be an attorney representing the Attorney General's
23 Office appointed by the Attorney General. One member shall be a
24 currently certified confidential intermediary appointed by the
25 Director of the Department of Children and Family Services. The
26 Director shall also appoint 5 additional members. When making

1 those appointments, the Director shall consider advocates for
2 adopted persons, adoptive parents, birth parents, lawyers who
3 represent clients in private adoptions, lawyers specializing
4 in privacy law, and representatives of agencies involved in
5 adoptions. The Director shall appoint one of the 7 members as
6 the chairperson. An attorney from the Department of Children
7 and Family Services and the person directly responsible for
8 administering the confidential intermediary program shall
9 serve as ex-officio, non-voting advisors to the Council.
10 Council members shall serve at the discretion of the Director
11 and shall receive no compensation other than reasonable
12 expenses approved by the Director. The Council shall meet no
13 less than twice yearly, and shall make recommendations to the
14 Director regarding the development of rules, procedures, and
15 forms that will ensure efficient and effective operation of the
16 confidential intermediary process, including:

17 (1) Standards for certification for confidential
18 intermediaries.

19 (2) Oversight of methods used to verify that
20 intermediaries are complying with the appropriate laws.

21 (3) Training for confidential intermediaries,
22 including training with respect to federal and State
23 privacy laws.

24 (4) The relationship between confidential
25 intermediaries and the court system, including the
26 development of sample orders defining the scope of the

1 intermediaries' access to information.

2 (5) Any recent violations of policy or procedures by
3 confidential intermediaries and remedial steps, including
4 decertification, to prevent future violations.

5 (g) Access. Subject to the limitations of subsection (i)
6 of this Section, the confidential intermediary shall have
7 access to vital records maintained by the Department of Public
8 Health and its local designees for the maintenance of vital
9 records or a comparable public entity that maintains vital
10 records in another state in accordance with that state's laws
11 and all records of the court or any adoption agency, public or
12 private, as limited in this Section, which relate to the
13 adoption or the identity and location of an adopted or
14 surrendered person, of an adult child or surviving spouse of a
15 deceased adopted or surrendered person, or of a birth parent,
16 birth sibling, or the sibling of a deceased birth parent. The
17 confidential intermediary shall not have access to any personal
18 health information protected by the Standards for Privacy of
19 Individually Identifiable Health Information adopted by the
20 U.S. Department of Health and Human Services under the Health
21 Insurance Portability and Accountability Act of 1996 unless the
22 confidential intermediary has obtained written consent from
23 the person whose information is being sought or, if that person
24 is a minor child, that person's parent or guardian.
25 Confidential intermediaries shall be authorized to inspect
26 confidential relinquishment and adoption records. The

1 confidential intermediary shall not be authorized to access
2 medical records, financial records, credit records, banking
3 records, home studies, attorney file records, or other personal
4 records. In cases where a birth parent is being sought, an
5 adoption agency shall inform the confidential intermediary of
6 any statement filed pursuant to Section 18.3, hereinafter
7 referred to as "the 18.3 statement", indicating a desire of the
8 surrendering birth parent to have identifying information
9 shared or to not have identifying information shared. If there
10 was a clear statement of intent by the sought-after birth
11 parent not to have identifying information shared, the
12 confidential intermediary shall discontinue the search and
13 inform the petitioning party of the sought-after relative's
14 intent. Information provided to the confidential intermediary
15 by an adoption agency shall be restricted to the full name,
16 date of birth, place of birth, last known address, last known
17 telephone number of the sought-after relative or, if
18 applicable, of the children or siblings of the sought-after
19 relative, and the 18.3 statement.

20 (h) Adoption agency disclosure of medical information. If
21 the petitioner is an adult adopted or surrendered person or the
22 adoptive parent of a minor and if the petitioner has signed a
23 written authorization to disclose personal medical
24 information, an adoption agency disclosing information to a
25 confidential intermediary shall disclose available medical
26 information about the adopted or surrendered person from birth

1 through adoption.

2 (i) Duties of confidential intermediary in conducting a
3 search. In conducting a search under this Section, the
4 confidential intermediary shall first confirm that there is no
5 Denial of Information Exchange on file with the Illinois
6 Adoption Registry. If the petitioner is an adult child of an
7 adopted or surrendered person who is deceased, the confidential
8 intermediary shall additionally confirm that the adopted or
9 surrendered person did not file a Denial of Information
10 Exchange with the Illinois Adoption Registry during his or her
11 life. If the petitioner is an adult birth sibling of an adopted
12 or surrendered person or an adult sibling of a birth parent who
13 is deceased, the confidential intermediary shall additionally
14 confirm that the birth parent did not file a Denial of
15 Information Exchange with the Registry during his or her life.
16 If the confidential intermediary learns that a sought-after
17 birth parent signed a statement indicating his or her intent
18 not to have identifying information shared, and did not later
19 file an Information Exchange Authorization with the Adoption
20 Registry, the confidential intermediary shall discontinue the
21 search and inform the petitioning party of the birth parent's
22 intent.

23 In conducting a search under this Section, the confidential
24 intermediary shall attempt to locate the relative or relatives
25 from whom the petitioner has requested information. If the
26 sought-after relative is deceased or cannot be located after a

1 diligent search, the confidential intermediary may contact
2 other adult relatives of the sought-after relative.

3 The confidential intermediary shall contact a sought-after
4 relative on behalf of the petitioner in a manner that respects
5 the sought-after relative's privacy and shall inform the
6 sought-after relative of the petitioner's request for medical
7 information, identifying information or contact as stated in
8 the petition. Based upon the terms of the petitioner's request,
9 the confidential intermediary shall contact a sought-after
10 relative on behalf of the petitioner and inform the
11 sought-after relative of the following options:

12 (1) The sought-after relative may totally reject one or
13 all of the requests for medical information, identifying
14 information or contact. The sought-after relative shall be
15 informed that they can provide a medical questionnaire to
16 be forwarded to the petitioner without releasing any
17 identifying information. The confidential intermediary
18 shall inform the petitioner of the sought-after relative's
19 decision to reject the sharing of information or contact.

20 (2) The sought-after relative may consent to
21 completing a medical questionnaire only. In this case, the
22 confidential intermediary shall provide the questionnaire
23 and ask the sought-after relative to complete it. The
24 confidential intermediary shall forward the completed
25 questionnaire to the petitioner and inform the petitioner
26 of the sought-after relative's desire to not provide any

1 additional information.

2 (3) The sought-after relative may communicate with the
3 petitioner without having his or her identity disclosed. In
4 this case, the confidential intermediary shall arrange the
5 desired communication in a manner that protects the
6 identity of the sought-after relative. The confidential
7 intermediary shall inform the petitioner of the
8 sought-after relative's decision to communicate but not
9 disclose his or her identity.

10 (4) The sought after relative may consent to initiate
11 contact with the petitioner. If both the petitioner and the
12 sought-after relative or relatives are eligible to
13 register with the Illinois Adoption Registry, the
14 confidential intermediary shall provide the necessary
15 application forms and request that the sought-after
16 relative register with the Illinois Adoption Registry. If
17 either the petitioner or the sought-after relative or
18 relatives are ineligible to register with the Illinois
19 Adoption Registry, the confidential intermediary shall
20 obtain written consents from both parties that they wish to
21 disclose their identities to each other and to have contact
22 with each other.

23 (j) Oath. The confidential intermediary shall sign an oath
24 of confidentiality substantially as follows: "I,,
25 being duly sworn, on oath depose and say: As a condition of
26 appointment as a confidential intermediary, I affirm that:

1 (1) I will not disclose to the petitioner, directly or
 2 indirectly, any confidential information except in a
 3 manner consistent with the law.

4 (2) I recognize that violation of this oath subjects me
 5 to civil liability and to a potential finding of contempt
 6 of court.

7 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert
 8 date)
 9"

10 (k) Sanctions.

11 (1) Any confidential intermediary who improperly
 12 discloses confidential information identifying a
 13 sought-after relative shall be liable to the sought-after
 14 relative for damages and may also be found in contempt of
 15 court.

16 (2) Any person who learns a sought-after relative's
 17 identity, directly or indirectly, through the use of
 18 procedures provided in this Section and who improperly
 19 discloses information identifying the sought-after
 20 relative shall be liable to the sought-after relative for
 21 actual damages plus minimum punitive damages of \$10,000.

22 (3) The Department shall fine any confidential
 23 intermediary who improperly discloses confidential
 24 information in violation of item (1) or (2) of this
 25 subsection (k) an amount up to \$2,000 per improper
 26 disclosure. This fine does not affect civil liability under

1 item (2) of this subsection (k). The Department shall
2 deposit all fines and penalties collected under this
3 Section into the Illinois Adoption Registry and Medical
4 Information Fund.

5 (l) Death of person being sought. Notwithstanding any other
6 provision of this Act, if the confidential intermediary
7 discovers that the person being sought has died, he or she
8 shall report this fact to the court, along with a copy of the
9 death certificate.

10 (m) Any confidential information obtained by the
11 confidential intermediary during the course of his or her
12 search shall be kept strictly confidential and shall be used
13 for the purpose of arranging contact between the petitioner and
14 the sought-after birth relative. At the time the case is
15 closed, all identifying information shall be returned to the
16 court for inclusion in the impounded adoption file.

17 (n) If the petitioner is an adopted or surrendered person
18 21 years of age or over or the adoptive parent or legal
19 guardian of an adopted or surrendered person under the age of
20 21, any non-identifying information, as defined in Section
21 18.4, that is ascertained during the course of the search may
22 be given in writing to the petitioner at any time during the
23 search before the case is closed.

24 (o) Except as provided in subsection (k) of this Section,
25 no liability shall accrue to the State, any State agency, any
26 judge, any officer or employee of the court, any certified

1 confidential intermediary, or any agency designated to oversee
2 confidential intermediary services for acts, omissions, or
3 efforts made in good faith within the scope of this Section.

4 (p) An adoption agency that has received a request from a
5 confidential intermediary for the full name, date of birth,
6 last known address, or last known telephone number of a
7 sought-after relative pursuant to subsection (g) of Section
8 18.3, or for medical information regarding a sought-after
9 relative pursuant to subsection (h) of Section 18.3, must
10 satisfactorily comply with this court order within a period of
11 45 days. The court shall order the adoption agency to reimburse
12 the petitioner in an amount equal to all payments made by the
13 petitioner to the confidential intermediary, and the adoption
14 agency shall be subject to a civil monetary penalty of \$1,000
15 to be paid to the Department of Children and Family Services.
16 Following the issuance of a court order finding that the
17 adoption agency has not complied with Section 18.3, the
18 adoption agency shall be subject to a monetary penalty of \$500
19 per day for each subsequent day of non-compliance. Proceeds
20 from such fines shall be utilized by the Department of Children
21 and Family Services to subsidize the fees of petitioners as
22 referenced in subsection (d) of this Section.

23 (q) Provide information to eligible petitioner. The
24 confidential intermediary may provide to eligible petitioners
25 as described in subsections (a) and (b) of this Section, the
26 name of the child welfare agency which had legal custody of the

1 surrendered person or responsibility for placing the
2 surrendered person and any available contact information for
3 such agency. In addition, the confidential intermediary may
4 provide to such petitioners the name of the state in which the
5 surrender occurred or in which the adoption was finalized.

6 Any reimbursements and fines, notwithstanding any
7 reimbursement directly to the petitioner, paid under this
8 subsection are in addition to other remedies a court may
9 otherwise impose by law.

10 Proceeds from the penalties paid to the Department of
11 Children and Family Services shall be deposited into the DCFS
12 Children's Services Fund. The Department of Children and Family
13 Services shall submit reports to the Confidential Intermediary
14 Advisory Council by July 1 and January 1 of each year in order
15 to report the penalties assessed and collected under this
16 subsection, the amounts of related deposits into the DCFS
17 Children's Services Fund, and any expenditures from such
18 deposits.

19 (Source: P.A. 93-189, eff. 1-1-04; 94-173, eff. 1-1-06;
20 94-1010, eff. 10-1-06.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.