

JOINT SUBMISSION OF MARYLAND ADOPTION ATTORNEYS

RE: HB 1258, SB ____ – Child Placement Services – Advertising by Unlicensed Persons

Position: Support with Amendments

Dear Chair and Members of the Senate Judicial Proceedings Committee:

We are attorneys who practice in the area of adoption and family formation, representing expectant parents, adoptive parents, and children throughout the State. Each of us is a Fellow of the Academy of Adoption and Assisted Reproduction Attorneys, an international organization that admits attorneys only after a rigorous vetting process confirming substantial experience, ethical standards, and demonstrated competence in adoption law and related fields.

We support HB 1258's goal of promoting transparency and protecting Marylanders from the predatory practices of unlicensed persons in adoption; however, we respectfully request narrow, clarifying amendments to avoid unintended consequences. As explained more fully in the attached memorandum, HB 1258, as drafted, would:

- Raise serious constitutional concerns due to broad restrictions on attorney and commercial advertising;
- Prevent Marylanders from locating qualified adoption attorneys, even where such services are lawful and, in some cases, required; and
- Disrupt Maryland's multi-pathway adoption framework by effectively steering individuals toward Maryland agency-only adoptions and limiting their ability to choose the lawful adoption pathway that best fits their circumstances.

With friendly, technical amendments, the bill can achieve its intended purpose of protecting Marylanders from unlicensed entities, while avoiding constitutional violations and preserving the public's access to competent legal counsel and individual autonomy in choosing among lawful adoption pathways.

We respectfully urge the Committee to adopt clarifying language to ensure the bill is narrowly tailored to its intended purpose. We have provided a brief memorandum and multi-state compilation to assist the Committee in evaluating these issues. We would welcome the opportunity to assist further or provide additional input.

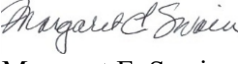
Thank you for your consideration.

Respectfully,


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HOUSE BILL 1258

D4

6lr3206

By: ~~Delegate Smith~~ **Delegates Smith, Moreno, Conaway, and Williams**

Introduced and read first time: February 12, 2026

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2026

CHAPTER _____

1 AN ACT concerning

2 **Child Placement Services – Advertising by Unlicensed Person – Prohibition**

3 FOR the purpose of prohibiting a person from advertising adoption services in the State,
4 unless the person is a local department or a child placement agency licensed by the
5 Social Services Administration; authorizing the Administration to notify the
6 Attorney General of a violation of this Act; ~~authorizing the Attorney General to bring~~
7 ~~an action for damages for a violation of this Act~~ making a violation of this Act an
8 unfair, abusive, or deceptive trade practice under the Maryland Consumer
9 Protection Act; and generally relating to the advertisement of adoption services by
10 unlicensed persons.

11 BY repealing and reenacting, with amendments,

12 Article – Commercial Law
13 Section 13–301(14)(xlvii)
14 Annotated Code of Maryland
15 (2025 Replacement Volume)

16 BY repealing and reenacting, without amendments,

17 Article – Commercial Law
18 Section 13–301(14)(xlviii)
19 Annotated Code of Maryland
20 (2025 Replacement Volume)

21 BY adding to

22 Article – Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 13–301(14)(xlix)
 2 Annotated Code of Maryland
 3 (2025 Replacement Volume)

4 BY repealing and reenacting, without amendments,
 5 Article – Family Law
 6 Section 5–101(a), (c), and (e), 5–501(a) and (b), and 5–507
 7 Annotated Code of Maryland
 8 (2019 Replacement Volume and 2025 Supplement)

9 BY adding to
 10 Article – Family Law
 11 Section 5–508
 12 Annotated Code of Maryland
 13 (2019 Replacement Volume and 2025 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 15 That the Laws of Maryland read as follows:

16 **Article – Commercial Law**

17 13–301.

18 Unfair, abusive, or deceptive trade practices include any:

19 (14) Violation of a provision of:

20 (xlvii) Title 14, Subtitle 50 of this article; [or]

21 (xlviii) Section 13–411.1(c)(2) of the Transportation Article; or

22 **(XLIX) SECTION 5–508 OF THE FAMILY LAW ARTICLE; OR**

23 **Article – Family Law**

24 5–101.

25 (a) In this title the following words have the meanings indicated.

26 (c) “Child placement agency” means:

27 (1) a local department; or

28 (2) a private agency that is licensed by the Social Services Administration
 29 of the Department under § 5–507 of this title, or by a comparable governmental unit of
 30 another state, to place children.

1 (e) "Department" means the State Department of Human Services.

2 5-501.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "Administration" means:

5 (1) the Social Services Administration of the Department; or

6 (2) any other unit within the Department to which the Secretary of Human
7 Services has delegated in writing specified responsibilities of the Administration under this
8 subtitle.

9 5-507.

10 (a) Except as otherwise provided in this section, a person shall be licensed by the
11 Administration as a child placement agency before the person may engage in the placement
12 of minor children in homes or with individuals.

13 (b) A license is not required:

14 (1) for a person to place a child with an individual related to the child by
15 blood or marriage within 4 degrees of consanguinity or affinity under the civil law rule;

16 (2) except as provided in § 5-3B-12 of this title, for a parent or grandparent
17 of a child to place the child directly, without the intervention of any other person except the
18 recipient of the child; or

19 (3) for a lawyer to prepare pleadings necessary to accomplish the adoption
20 of a child or to perform any other function associated with the normal practice of law.

21 **5-508.**

22 **(A) IN THIS SECTION, "ADVERTISE" MEANS TO ISSUE ANY COMMUNICATION,**
23 **SOLICITATION, OR OUTREACH INTENDED TO OFFER OR PROMOTE PRIVATE CHILD**
24 **PLACEMENT SERVICES, INCLUDING COMMUNICATIONS ISSUED VIA:**

25 **(1) PRINT OR DIGITAL MEDIA;**

26 **(2) INTERNET WEBSITES, SOCIAL MEDIA, OR ONLINE PLATFORMS;**

27 **(3) RADIO, TELEVISION, OR DIGITAL STREAMING SERVICES;**

28 **(4) DIRECT MAIL, E-MAIL, OR TEXT MESSAGING; OR**

1 (5) ANY OTHER MEDIUM REASONABLY CALCULATED TO REACH
2 RESIDENTS OF THE STATE.

PRIVATE CHILD PLACEMENT SERVICES

3 (B) (1) A PERSON MAY NOT ADVERTISE ~~ADOPTION SERVICES~~ IN THE
4 STATE UNLESS THE PERSON IS A LOCAL DEPARTMENT OR A CHILD PLACEMENT
5 AGENCY ~~LICENSED BY THE ADMINISTRATION UNDER § 5-507~~ OF THIS SUBTITLE.

5-501

6 (2) THE PROHIBITION IN THIS SUBSECTION INCLUDES
7 ADVERTISEMENTS THAT:

8 (I) ORIGINATE IN THE STATE;

9 (II) ORIGINATE OUTSIDE THE STATE;

10 (III) TARGET STATE RESIDENTS DIRECTLY; AND

11 (IV) TARGET STATE RESIDENTS INDIRECTLY THROUGH
12 GENERAL DISTRIBUTION.

13 (C) THE ADMINISTRATION MAY:

14 (1) INVESTIGATE ALLEGED VIOLATIONS OF THIS SECTION;

15 (2) ISSUE A CEASE AND DESIST ORDER TO A PERSON THAT THE
16 ADMINISTRATION BELIEVES TO BE VIOLATING THE PROVISIONS OF SUBSECTION (B)
17 OF THIS SECTION; AND

18 (3) NOTIFY THE ATTORNEY GENERAL IF THERE IS REASON TO
19 BELIEVE THAT A PERSON HAS COMMITTED A VIOLATION OF THIS SECTION.

20 (D) ~~ON RECEIVING NOTICE FROM THE ADMINISTRATION UNDER~~
21 ~~SUBSECTION (C)(3) OF THIS SECTION, THE ATTORNEY GENERAL MAY BRING AN~~
22 ~~ACTION FOR RELIEF IN A COURT OF COMPETENT JURISDICTION, INCLUDING AN~~
23 ~~ACTION SEEKING:~~

24 (1) ~~A CIVIL PENALTY OF \$10,000 FOR EACH VIOLATION OF THIS~~
25 ~~SECTION; AND~~

26 (2) ~~ANY OTHER DAMAGES AUTHORIZED BY LAW~~ A VIOLATION OF THIS
27 SECTION IS:

28 (1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN
29 THE MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND

1 **(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS**
2 **CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2026.

(E) NOTHING IN THIS SECTION PROHIBITS AN ATTORNEY LICENSED TO PRACTICE IN MARYLAND FROM ADVERTISING THE ATTORNEY'S AVAILABILITY TO PROVIDE LEGAL SERVICES RELATED TO THE ADOPTION OF CHILDREN.

(F) PRIVATE CHILD PLACEMENT SERVICES DOES NOT INCLUDE PROSPECTIVE BIRTH PARENTS OR ADOPTIVE PARENTS INDEPENDENTLY SEEKING TO MATCH THEMSELVES.

(G) IN THIS SECTION, "PRIVATE CHILD PLACEMENT SERVICES" MEANS: (1) ARRANGING FOR THE PLACEMENT OF OR PLACING ~~OUT~~ A CHILD FOR ADOPTION; (2) MATCHING ADOPTIVE PARENTS WITH BIRTH PARENTS; AND (3) ARRANGING OR FACILITATING AN ADOPTION PLACEMENT.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

MEMORANDUM: MARYLAND’S ADOPTION FRAMEWORK AND THE CRITICAL ROLE OF LICENSED ADOPTION ATTORNEYS

Maryland law deliberately provides multiple lawful adoption pathways for families, through:

1. Family Law Title 5, Subtitle 3 (Parts III and IV) - authorizes adoptions through local departments of social services (foster care)
2. Family Law Title 5, Subtitle 3A - authorizes adoptions through licensed private agencies
3. Family Law Title 5, Subtitle 3B - authorizes independent adoptions (defined in 5-3B-02 as “an adoption that is arranged other than by a child placement agency”), which include stepparent, relative (kinship), adult, privately matched, contested, and confirmatory adoptions, as well as finalizations of children adopted abroad and other non-agency placements.

While we do not perform child placement services, Maryland attorneys provide comprehensive, independent legal representation that is critical to protecting the rights of all parties. Attorneys guide their clients through complex, highly sensitive legal and personal decision-making processes ensuring that adoption proceedings are conducted ethically, lawfully, and with fully informed participation.

Consistent with the legislative intent and purpose of Maryland’s adoption laws as expressed in Family Law, §§ 5-303, 5-3A-03, and 5-3B-03, adoption attorneys routinely:

- advise placing parents of their legal rights consistent with their right to counsel, which must be affirmatively exercised or waived in the required written consent documents (*see, e.g.*, Md. Rule 9-102 and related forms);
- advise on and document informed, voluntary consent for consenting minors as placing parents or as adoptees for whom legal counsel is required under Maryland law;
- advise adoptive parents of their legal rights, options, and the legal ramifications of adoption;
- mediate (particularly in the context of adoptions through the local department of social services), negotiate and formalize legally enforceable post-adoption contact agreements that will govern the contact between the parties until the child reaches the age of 18;
- ensure compliance with Maryland law governing allowable birthparent expenses;
- facilitate compliance with the Interstate Compact on the Placement of Children (ICPC) for interstate adoptions;
- serve as counsel to and/or work closely with licensed private agencies, demonstrating that attorneys operate within and support the State’s regulated adoption framework; and
- coordinate the exchange of required social, family, medical, and other information necessary to finalize an adoption.

Attorneys are licensed and subject to the Maryland Attorneys’ Rules of Professional Conduct, which govern advertising, communications with clients, conflicts of interest, and ethical obligations. These existing safeguards provide oversight and accountability that do not apply to unlicensed persons or entities.

HB 1258 Uses Undefined Terms and Overbroad Language

HB 1258 uses inconsistent and undefined terminology, creating uncertainty as to the scope of conduct it intends to regulate. The bill references “private child placement services” in subsection (A), but prohibits advertising of “adoption services” in subsection (B)(1) by any person who is not a local department or a child placement agency licensed in Maryland.

Neither term is defined. As a result, it is unclear whether the prohibition is limited to placement and matching services or extends to lawful legal services, attorney communications, educational information, and communications by prospective adoptive parents on their own behalf. This creates a significant risk of overbroad application.

The Office of the Attorney General has similarly recognized the need for clear definitions to ensure consistent enforcement.

HB 1258 Introduces Conflicting Statutory Criteria

Maryland law expressly recognizes out-of-state licensed child placement agencies as child placement agencies. *See* Md. Code, Family Law § 5-101(c)(2) (defining “child placement agency” as “(1) a local department; or (2) a private agency that is licensed by the Social Services Administration of the Department under § 5-507 of this title, or by a comparable governmental unit of another state, to place children.”). HB 1258(B)(1), however, would prohibit advertising by any “person” who is not “a local department or a child placement agency licensed by the [Maryland Social Services] Administration under § 5-507 of this subtitle.” This creates the incongruous result that out-of-state child placement agencies recognized as lawful under Maryland law would nevertheless be prohibited from communicating their services to Maryland families, effectively limiting the public’s access to those authorized resources. This conflict could be easily avoided by simply using the previously defined term, “child placement agency” from § 5-101(c)(2).

Consequences of HB 1258

As a result of HB 1258’s undefined terminology, overbroad language, and conflicting statutory criteria, Marylanders may be effectively prevented from pursuing the lawful adoption pathway best suited to their circumstances or from locating qualified, independent counsel to guide them through the complex and lifelong implications of adoption. More specifically:

- Attorneys would be unable to advertise that they provide adoption-related legal services.
- Significant constitutional concerns arise because broad prohibitions on advertising lawful adoption services and educational information violate the First Amendment. Licensed attorneys have a constitutional right to advertise their services as protected commercial speech under the First Amendment. *See Bates v. State Bar of Arizona*, 433 U.S. 350 (1977). Thus, restrictions on such speech must involve a “substantial” state interest, “directly advance[] the governmental interest asserted,” and “not [be] more extensive than is necessary to serve that interest.” *See Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980). Attorneys may also include certifications or areas of specialization in their advertising, provided such statements are truthful and not misleading, consistent with *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91 (1990) and American Bar Association Model Rules 7.1–7.4.

- Attorneys, licensed out-of-state adoption agencies, child welfare organizations, and other legitimate entities would be unable to educate the public about lawful adoption options.
- Individuals would be effectively funneled toward the only visible option, Maryland child placement agencies, which do not provide legal representation and cannot handle many types of adoptions, including independent adoptions.
- Lawful adoption pathways may become functionally unavailable due to lack of visibility.
- Individuals steered towards the local department of social services may never succeed in adopting. While adoption through the local department of social services is possible, reunification with birthparents is the primary goal for most children in foster care. Additionally, not all individuals are equipped to serve as resource parents and adopt children from foster care who often have significant special needs.
- Birth parents and prospective adoptive parents would be unable to communicate or advertise on their own behalf to self-match, effectively limiting their access to independent adoptions. These pathways are often chosen because they allow for greater control over the process, direct communication between the parties, and lower overall costs.
- Out-of-state, licensed child placement agencies would be prevented from advertising in Maryland.

Proposed Amendments

Other states address these concerns through targeted drafting. Many states expressly preserve an attorney’s ability to advertise legal services related to adoption, and/or define regulated services in a manner that excludes legal representation. Restrictions on advertising are often limited to child placement or matching activities.

The following friendly technical amendments are requested:

1. Expressly exclude the provision of legal services by an attorney licensed to practice law by adding the following provision:
(E) NOTHING IN THIS SECTION PROHIBITS AN ATTORNEY LICENSED TO PRACTICE IN MARYLAND FROM ADVERTISING THE ATTORNEYS AVAILABILITY TO PROVIDE SERVICES TO THE ADOPTION OF CHILDREN.
2. Expressly exclude actions taken by birth parents and adoptive parents acting on their own behalf by adding the following provision:
(F) PRIVATE CHILD PLACEMENT SERVICES DOES NOT INCLUDE PROSPECTIVE BIRTH PARENTS OR ADOPTIVE PARENTS INDEPENDENTLY SEEKING TO MATCH THEMSELVES.
3. Define “private child placement services” to mean services related to the identification, matching, or placement of a child for adoption by adding the following definition:
(G) IN THIS SECTION, “PRIVATE CHILD PLACEMENT SERVICES” MEANS: (1) ARRANGING FOR THE PLACEMENT OF OR PLACING OUT A CHILD FOR ADOPTION; (2) MATCHING ADOPTIVE PARENTS WITH BIRTH PARENTS; AND (3) ARRANGING OR FACILITATING AN ADOPTION PLACEMENT.

4. Use consistent terminology, replacing “adoption services” in Paragraph (B)(1) with “private child placement services” and allowing all child placement agencies as defined in Family Law, § 5-101(c) to advertise private child placement services. This can be accomplished by amending Paragraph (B)(1) as follows:

(B)(1) A PERSON MAY NOT ADVERTISE PRIVATE CHILD PLACEMENT SERVICES IN THE STATE UNLESS THE PERSON IS A CHILD PLACEMENT AGENCY UNDER § 5-501 OF THIS SUBTITLE.

These amendments demonstrate that it is entirely possible to ensure transparency in the adoption process and to protect Marylanders from the predatory practices of unlicensed persons or entities.

Many States include guidance or restrictions on advertising in adoption, while providing specific exemptions for attorneys advertising their ability to provide legal services, for what is a wholly legal process. Attached is a compilation of rules and statutes from across the country, with language highlighted to provide examples of how attorneys are exempt from the restrictions.

Multi-State Statute Compilation

8-130. Consent to licensed agency or division; attorneys; affidavits

A. A consent to adoption of a child shall not be granted to an agency unless the agency is licensed to place children for adoption under this article. A consent may be granted to the division, which is exempt from licensure. An agency or the division may conduct both agency placement adoptions and direct placement adoptions. An agency placement adoption shall only be made by an agency or the division.

B. Except as provided in subsection C, a person shall not do any of the following unless the person is employed or engaged by and acting on behalf of a licensed adoption agency:

1. Solicit or accept employment or engagement, for compensation, by or on behalf of a parent or guardian for assistance in the placement of a child for adoption.

2. Solicit or accept employment or engagement, for compensation, by or on behalf of any person to locate or obtain a child for adoption.

C. An attorney licensed to practice law in this state may assist and participate in direct placement adoptions and may receive compensation to the extent the court finds reasonable under section 8-114 if the person granting consent to the adoption has made a choice of the specific adopting parent without prior involvement of the attorney or if the choice is made only from among persons currently certified by the court as acceptable to adopt children pursuant to section 8-105.

D. Before a petition to adopt is granted and as a condition of the entry of an order of adoption:

1. An attorney participating or assisting in a direct placement adoption shall file with the court an affidavit confirming that there has been, to the best of his knowledge and belief, compliance with subsection B of this section and with section 8-114, subsection B, section 8-129 and, if fictitious names have been used, section 8-107, subsection E.

2. An attorney representing petitioners in an agency placement adoption and the agency shall file with the court an affidavit confirming that there has been, to the best of the petitioner's, agency's and attorney's knowledge and belief, compliance with subsections A and B of this section and sections 8-114 and 8-129.

JUSTIA

[Go to Previous Versions of this Section](#) ▾

2024 Colorado Revised Statutes Title 19 - CHILDREN'S CODE (§§ 19-1-101 — 19-7-315)

Article 5 - Relinquishment and Adoption (§§ 19-5-100.2 — 19-5-403)

Part 2 - ADOPTION (§§ 19-5-200.2 — 19-5-217)

Section 19-5-213.5 - Unauthorized advertising for adoption purposes - exceptions - penalty - definitions

Universal Citation:

CO Rev Stat § 19-5-213.5 (2024)

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(1) As used in this section, unless the context otherwise requires:

(a) "Advertise through a public medium" means to communicate by any public medium, including by newspaper, periodical, telephone book listing, outdoor advertising sign, radio, or television or by computerized communication system, which includes an internet site, an internet profile, or any similar medium of communication provided via the internet. "Advertising through a public

medium" does not include communicating through personal or work electronic mail, text, or telephone.

(b) "Another jurisdiction" means the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States, an Indian tribe, or a state of the United States other than Colorado.

(c) "Child" means a person less than eighteen years of age.

(2) Except as described in subsection (3) of this section, it is unlawful to advertise through a public medium for one of the following purposes:

(a) To find a child to adopt or to otherwise take permanent physical custody of a child;

(b) To find an adoptive home or any other permanent physical placement for a child or to arrange for or assist in the adoption, adoptive placement, or any other permanent physical placement of a child; or

(c) To offer to place a child for adoption or in any other permanent physical placement with another person.

(3) Subsection (2) of this section does not apply to:

(a) An employee of the state department of human services, a county department of human or social services, or a child placement agency that is licensed pursuant to part 9 of article 6 of title 26 who is acting within the scope of the employee's employment to place a child for adoption or in foster care;

(b) An individual or agency that provides adoption information through the statewide adoption resource registry as provided in section 26-1-111 (4), C.R.S.;

(c) An adoption exchange whose membership includes county departments and licensed child placement agencies that provide information and referral services to find adoptive homes and to promote adoption;

(d) An individual who contacts and has entered into an agreement with or is actively working with any of the agencies or entities described in paragraph (a), (b), or (c) of this subsection (3) to place his or her child for adoption;

(e) A person who advertises fertility-related services;

(f) An individual who has received a favorable recommendation regarding his or her fitness to be an adoptive parent in this state from the state department of human services, a county department of human or social services, or a child placement agency licensed in this state or in another jurisdiction from an entity authorized by that jurisdiction to conduct studies of potential adoptive homes; or

(g) An attorney who is licensed to practice in Colorado who advertises his or her availability to practice or provide services relating to the adoption of children.

(4) Unauthorized advertising of a child, as described in subsection (2) of this section, is a class 2 misdemeanor.

Amended by 2023 Ch. 298, § 60, eff. 10/1/2023.

Amended by 2022 Ch. 123, § 44, eff. 7/1/2022.

Amended by 2018 Ch. 38, § 77, eff. 8/8/2018.

Added by 2014 Ch. 262, § 1, eff. 7/1/2014.

L. 2014:Entire section added,(HB 14-1372), ch. 262, p. 1053, § 1, effective July 1.L. 2018:(3) (a) and (3)(f) amended,(SB 18-092), ch. 38, p. 433, § 77, effective August 8.L. 2022:(3)(a) amended,(HB 22-1295), ch. 123, p. 837, § 44, effective July 1.L. 2023:(4) amended,(HB 23-1293), ch. 298, p. 1796, § 60, effective October 1.

For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

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Select Year:

The 2025 Florida Statutes

[Title VI](#)
CIVIL PRACTICE AND PROCEDURE

[Chapter 63](#)
ADOPTION

[View Entire Chapter](#)

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(a) To place or attempt to place a minor for adoption with a person who primarily lives and works outside this state unless all of the requirements of the Interstate Compact for the Placement of Children, when applicable, have been met.

(b) Except an adoption entity, to place or attempt to place within the state a minor for adoption unless the minor is placed with a relative or with a stepparent. This prohibition, however, does not apply to a person who is placing or attempting to place a minor for the purpose of adoption with the adoption entity.

(c) To sell or surrender, or to arrange for the sale or surrender of, a child to another person for money or anything of value or to receive such child for such payment or thing of value. If a child is being adopted by a relative or by a stepparent, or is being adopted through an adoption entity, this paragraph does not prohibit the person who is contemplating adopting the child from paying, under ss. [63.097](#) and [63.132](#), the actual prenatal care and living expenses of the mother of the child to be adopted, or from paying, under ss. [63.097](#) and [63.132](#), the actual living and medical expenses of such mother for a reasonable time, not to exceed 6 weeks after the birth of the child.

(d) Having the rights and duties of a parent with respect to the care and custody of a minor to assign or transfer such parental rights for the purpose of, incidental to, or otherwise connected with, selling or offering to sell such rights and duties.

(e) To assist in the commission of any act prohibited in paragraphs (a)-(d). In the case of a stepparent adoption, this paragraph does not preclude the forgiveness of vested child support arrearages owed by a parent.

(f) Except an adoption entity, to charge or accept any fee or compensation of any nature from anyone for making a referral in connection with an adoption.

(g) Except an adoption entity, to place an advertisement or offer to the public, in any way, by any medium whatever that a minor is available for adoption or that a minor is sought for adoption; and, further, it is unlawful for any person purchasing advertising space or purchasing broadcast time to advertise adoption services to fail to include in any publication or fail to include in the broadcast for such advertisement the Florida license number of the adoption entity or The Florida Bar number of the attorney placing the advertisement. This prohibition applies, but is not limited, to a paid advertisement, an article, a notice, or any other paid communication published in any newspaper or magazine, or on the Internet, on a billboard, over radio or television, or other similar media.

1. Only a person who is an attorney licensed to practice law in this state or an adoption entity licensed under the laws of this state may place an advertisement in this state that:

- a. A child is offered or wanted for adoption; or
- b. The person is able to place, locate, or receive a child for adoption.

2. A person who publishes a telephone directory, newspaper, magazine, billboard, or any other written advertisement that is distributed in this state must include a statement that only attorneys licensed to practice law in this state and adoption entities licensed under the laws of this state may legally provide adoption services under state law.

3. A person who places an advertisement must include the following information:

- a. For an attorney licensed to practice law in this state, the person's Florida Bar number.
 - b. For a child-placing agency licensed under the laws of this state, the number on the person's adoption entity license.
- (h) To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, in connection with any fetus yet unborn, or in connection with any fetus identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in accordance with statutory provisions for adoption, foster care, and child welfare are permitted, and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified in s. [63.213](#), but the payment of such expenses may not be conditioned upon the transfer of parental rights. Each petition for adoption which is filed in connection with a preplanned adoption agreement must clearly identify the adoption as a preplanned adoption arrangement and must include a copy of the preplanned adoption agreement for review by the court.
- (2) Any person who is a birth mother, or a woman who holds herself out to be a birth mother, who is interested in making an adoption plan and who knowingly or intentionally benefits from the payment of adoption-related expenses in connection with that adoption plan commits adoption deception if:
- (a) The person knows or should have known that the person is not pregnant at the time the sums were requested or received;
 - (b) The person accepts living expenses assistance from a prospective adoptive parent or adoption entity without disclosing that she is receiving living expenses assistance from another prospective adoptive parent or adoption entity at the same time in an effort to adopt the same child; or
 - (c) The person knowingly makes false representations to induce the payment of living expenses and does not intend to make an adoptive placement.
- Any person who willfully commits adoption deception commits a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#), if the sums received by the birth mother or woman holding herself out to be a birth mother do not exceed \$300, and a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), if the sums received by the birth mother or woman holding herself out to be a birth mother exceed \$300. In addition, the person is liable for damages caused by such acts or omissions, including reasonable attorney fees and costs incurred by the adoption entity or the prospective adoptive parent. Damages may be awarded through restitution in any related criminal prosecution or by filing a separate civil action.
- (3) This section does not prohibit an adoption entity from charging fees permitted under this chapter and reasonably commensurate to the services provided.
- (4) It is unlawful for any adoption entity to fail to report to the court, within a reasonable time period, the intended placement of a minor for purposes of adoption with any person not a stepparent or a relative, if the adoption entity participates in such intended placement.
- (5) It is unlawful for any adoption entity to charge any fee except those fees permitted under s. [63.097](#) and approved under s. [63.102](#).
- (6) It is unlawful for any adoption entity to counsel a birth mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. [63.097](#) when it is the intention that the child be placed for adoption outside the state.
- (7) It is unlawful for any adoption entity to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study or investigation to the court when required by law to do so.
- (8) Unless otherwise indicated, a person who willfully and with criminal intent violates any provision of this section, excluding paragraph (1)(g), commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). A person who willfully and with criminal intent violates paragraph (1)(g) commits a misdemeanor of the second degree, punishable as provided in s. [775.083](#); and each day of continuing violation shall be considered a separate offense.

History.—s. 21, ch. 73-159; s. 13, ch. 75-226; s. 25, ch. 77-147; s. 1, ch. 77-174; s. 9, ch. 78-190; s. 6, ch. 80-296; s. 5, ch. 84-101; s. 8, ch. 87-224; s. 10, ch. 87-397; s. 1, ch. 88-143; s. 3, ch. 90-55; s. 23, ch. 90-306; s. 22, ch. 92-96; s. 13, ch. 97-101; s. 31, ch. 2001-3; s. 35,

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2024 CODE OF GEORGIA

Title 19 - DOMESTIC RELATIONS (§§ 19-1-1 — 19-15-7)

Chapter 8 - ADOPTION (§§ 19-8-1 — 19-8-43)

Article 1 - GENERAL PROVISIONS (§§ 19-8-1 — 19-8-28)

Section 19-8-24 - Advertising restrictions and requirements; "inducements" defined; unlawful inducements; penalties; exemption for personal communications; civil actions

Universal Citation:

GA Code § 19-8-24 (2024)

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(a)

(1) It shall be unlawful for any person, organization, corporation, hospital, facilitator, or association of any kind whatsoever which is not a child-placing agency, a prospective adoptive parent who has a valid, approved preplacement home study report, or an attorney who is a member of the State Bar of Georgia representing a prospective adoptive parent who has a valid, approved preplacement home study report to advertise, whether in a periodical, by television, by radio, or by any other public medium or by any private means, including, but not limited to, letters, circulars, handbills, internet postings including social media, and oral statements, that the person, organization, corporation, hospital, facilitator, or association will adopt children or will arrange for or cause children to be adopted or placed for adoption.

(2)

(A) Any person, organization, corporation, hospital, facilitator, or association of any kind which is not a child-placing agency that places an advertisement concerning adoption or prospective adoption shall include in such advertisement its license number issued by the department;

(B) Any attorney representing a prospective adoptive parent who has a valid, approved preplacement home study report who places an advertisement concerning adoption or prospective adoption shall include in such advertisement his or her State Bar of Georgia license number; and

(C) Any individual who places an advertisement concerning being an adoptive parent shall include in such advertisement that he or she has a valid, approved preplacement home study report.

(b) It shall be unlawful for any person, organization, corporation, hospital, facilitator, or association of any kind whatsoever to sell, offer to sell, or conspire with another to sell or offer to sell a child for money or anything of value, except as otherwise provided in this article.

(c)

(1) As used in this subsection, the term "inducements" means any financial assistance, either direct or indirect, from whatever source, but shall expressly not include:

(A) The payment or reimbursement of the medical expenses directly related to the biological mother's pregnancy and hospitalization for the birth of the child and medical care for such child if paid by a licensed child-placing agency or an attorney;

(B) The payment or reimbursement of expenses for counseling services or legal services for a biological parent that are directly related to the placement by such parent of her or his child for adoption if paid by a licensed child-placing agency or an attorney;

(C) The payment or reimbursement of reasonable living expenses for the biological mother if paid by a licensed child-placing agency; or

(D) The payment or reimbursement of reasonable expenses for rent, utilities, food, maternity garments, and maternity accessories for the biological mother if paid from the trust account of an attorney who is a member of the State Bar of Georgia in good standing.

(2) It shall be unlawful for any person, organization, corporation, hospital, facilitator, or association of any kind whatsoever to directly or indirectly hold out inducements to any biological parent to part with his or her child.

(3) It shall be unlawful for any person, organization, corporation, hospital, facilitator, or association of any kind whatsoever to conspire with another to offer or provide inducements to a biological parent to part with his or her child.

(4) It shall be unlawful for an individual to knowingly make false representations in order to obtain inducements.

(5) The report and affidavit filed pursuant to subsections (c) and (d) of Code Section 19-8-13 shall include an itemized accounting of all expenses paid or reimbursed pursuant to this subsection.

(d)

(1) It shall be unlawful for an individual to knowingly accept expenses as set forth in subparagraph (c)(1)(C) or (c)(1)(D) of this Code section for the adoption of her child or unborn child if she knows or should have known that she is not pregnant or is not a legal mother.

(2) It shall be unlawful for an individual to knowingly accept expenses as set forth in subparagraph (c)(1)(C) or (c)(1)(D) of this Code section from an adoption agency or an attorney without disclosing that he or she is receiving such expenses from another adoption agency or attorney in an effort to allow for the adoption of the same child or unborn child.

(3) It shall be unlawful for an individual to knowingly make false representations in order to obtain expenses as set forth in subparagraph (c)(1)(C) or (c)(1)(D) of this Code section.

(4) It shall be unlawful for an individual to make false representations as to the existence of a pregnancy or the intention to place a child for adoption when such individual knows or should have known that the person purported to be

pregnant is not pregnant or that the person purported to be offering the child for adoption has no intention of placing the child for adoption, and such representations cause another to expend financial resources or take other specific steps, including, but not limited to, travel or retaining the services of an attorney, agency or social worker, toward adoption of a child in reasonable reliance on such representations.

(e) Any person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine not to exceed \$10,000.00, imprisonment for not less than one nor more than ten years, or both, and shall further be subject to a court order requiring such person to make restitution to a victim harmed by such person's violation.

(f)

(1) Subsection (a) of this Code section shall not apply to communication by private means, including written or oral statements, by an individual seeking to:

(A) Adopt a child or children; or

(B) Place that individual's child or children for adoption,

whether the communication occurs before or after the birth of such child or children.

(2) Subsection (a) of this Code section shall not apply to any communication described in paragraph (1) of this subsection which contains the name of an attorney who is a member of the State Bar of Georgia, his or her address, his or her telephone number, or any combination of such information and which requests that the attorney named in such communication be contacted to facilitate the carrying out of the purpose, as described in subparagraph (A) or (B) of paragraph (1) of this subsection, of the individual making such personal communication.

(g)

(1) Any child-placing agency or individual who is seeking to adopt or seeking to place a child for adoption who is damaged by a violation of this Code section may file a civil action to recover damages, treble damages, reasonable attorney's fees, and expenses of litigation.

(2) Any individual who is seeking to adopt or seeking to place a child for adoption who is damaged by a violation of this Code section may file a civil action in tort, provided that such individual would have an existing tort claim under Georgia law.

Amended by 2022 Ga. Laws 782, § 19, eff. 5/2/2022.

Amended by 2021 Ga. Laws 140, § 12, eff. 7/1/2021.

Amended by 2018 Ga. Laws 285, § 1-1, eff. 9/1/2018.

Amended by 2004 Ga. Laws 511, § 1, eff. 7/1/2004.

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Idaho Statutes

Idaho Statutes are updated to the website July 1 following the legislative session.

TITLE 18
CRIMES AND PUNISHMENTS
CHAPTER 15

CHILDREN AND VULNERABLE ADULTS

18-1512A. ADVERTISING FOR ADOPTION – PROHIBITED ACTS. (1) Unless the context clearly requires otherwise in this section, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast or the electronic medium.

(2) No person or entity shall cause to be published for circulation or broadcast on a radio or television station within the geographic borders of the state of Idaho an advertisement or notice of a child or children offered or wanted for adoption or shall hold himself out through such advertisement or notice as having the ability to place, locate, dispose or receive a child or children for adoption, unless the person or entity is a duly authorized agent, contractee or employee of the department of health and welfare or an authorized children's agency or institution licensed by the department of health and welfare to care for and place children.

(3) A violation of subsection (2) of this section is a matter affecting the public interest for the purpose of applying chapter 6, title 48, Idaho Code. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 6, title 48, Idaho Code.

(4) Nothing herein is intended to prohibit an attorney licensed to practice in the state of Idaho from advertising his or her ability to practice or provide services related to the adoption of children.

(5) Nothing herein is intended to prohibit physicians and other health care providers who are licensed to practice in the state of Idaho from assisting or providing natural and adoptive parents with medical care necessary to initiate and complete adoptive placements.

History:

[18-1512A, added 1988, ch. 226, sec. 1, p. 439; am. 2000, ch. 174, sec. 1, p. 442.]

How current is this law?

Illinois

Sec. 12. Advertisements.

(a) In this Section, "advertise" means communication by any public medium originating or distributed in this State, including, but not limited to, newspapers, periodicals, telephone book listings, outdoor advertising signs, radio, or television.

(b) A child care facility or child welfare agency licensed or operating under a permit issued by the Department may publish advertisements for the services that the facility is specifically licensed or issued a permit under this Act to provide. A person, group of persons, agency, association, organization, corporation, institution, center, or group who advertises or causes to be published any advertisement offering, soliciting, or promising to perform adoption services as defined in Section 2.24 of this Act is guilty of a Class A misdemeanor and shall be subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement, unless that person, group of persons, agency, association, organization, corporation, institution, center, or group is (i) licensed or operating under a permit issued by the Department as a child care facility or child welfare agency, (ii) a birth parent or a prospective adoptive parent acting on the birth parent's or prospective adoptive parent's own behalf, or (iii) a licensed attorney advertising the licensed attorney's availability to provide legal services relating to adoption, as permitted by law.

(c) Every advertisement published after the effective date of this amendatory Act of the 94th General Assembly shall include the Department-issued license number of the facility or agency.

(d) Any licensed child welfare agency providing adoption services that, after the effective date of this amendatory Act of the 94th General Assembly, causes to be published an advertisement containing reckless or intentional misrepresentations concerning adoption services or circumstances material to the placement of a child for adoption is guilty of a Class A misdemeanor and is subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement.

(e) An out-of-state agency that is not licensed in Illinois and that has a written interagency agreement with one or more Illinois licensed child welfare agencies may advertise under this Section, provided that (i) the out-of-state agency must be officially recognized by the United States Internal Revenue Service as a tax-exempt organization under 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law), (ii) the out-of-state agency provides only international adoption services and is covered by the Intercountry Adoption Act of 2000, (iii) the out-of-state agency displays, in the advertisement, the license number of at least one of the Illinois licensed child welfare

agencies with which it has a written agreement, and (iv) the advertisements pertain only to international adoption services. Subsection (d) of this Section shall apply to any out-of-state agencies described in this subsection (e).

(f) An advertiser, publisher, or broadcaster, including, but not limited to, newspapers, periodicals, telephone book publishers, outdoor advertising signs, radio stations, or television stations, who knowingly or recklessly advertises or publishes any advertisement offering, soliciting, or promising to perform adoption services, as defined in Section 2.24 of this Act, on behalf of a person, group of persons, agency, association, organization, corporation, institution, center, or group, not authorized to advertise under subsection (b) or subsection (e) of this Section, is guilty of a Class A misdemeanor and is subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement.

(g) The Department shall maintain a website listing child welfare agencies licensed by the Department that provide adoption services and other general information for birth parents and adoptive parents. The website shall include, but not be limited to, agency addresses, phone numbers, e-mail addresses, website addresses, annual reports as referenced in Section 7.6 of this Act, agency license numbers, the Birth Parent Bill of Rights, the Adoptive Parents Bill of Rights, and the Department's complaint registry established under Section 9.1a of this Act. The Department shall adopt any rules necessary to implement this Section.

(h) Nothing in this Act shall prohibit a day care agency, day care center, day care home, or group day care home that does not provide or perform adoption services, as defined in Section 2.24 of this Act, from advertising or marketing the day care agency, day care center, day care home, or group day care home.

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2025 Indiana Code

Title 35. Criminal Law and Procedure

Article 46. Miscellaneous Offenses

Chapter 1. Offenses Against the Family

35-46-1-22. Unauthorized Adoption Facilitation

Universal Citation:

IN Code § 35-46-1-22 (2025)

◀ Previous

Sec. 22. (a) As used in this section, "adoption services" means at least one (1) of the following services that is provided for compensation, an item of value, or reimbursement, either directly or indirectly, and provided either before or after the services are rendered:

- (1) Arranging for the placement of a child.
- (2) Identifying a child for adoption.
- (3) Matching adoptive parents with biological parents.
- (4) Arranging or facilitating an adoption.
- (5) Taking or acknowledging consents or surrenders for termination of parental rights for adoption purposes.

(6) Performing background studies on:

- (A) a child who is going to be adopted; or
- (B) adoptive parents.

(7) Making determinations concerning the best interests of a child and the appropriateness in placing the child for adoption.

(8) Postplacement monitoring of a child before the child is adopted.

(b) As used in this section, the term "adoption services" does not include the following:

(1) Legal services provided by an attorney licensed in Indiana.

(2) Adoption related services provided by a governmental entity or a person appointed to perform an investigation by the court.

(3) General education and training on adoption issues.

(4) Postadoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

(c) Subsection (d) does not apply to the following persons:

(1) The department of child services, an agency or person authorized to act on behalf of the department of child services, or a similar agency or county office with similar responsibilities in another state.

(2) The division of family resources, an agency or person authorized to act on behalf of the division of family resources, or a similar agency or county office with similar responsibilities in another state.

(3) A child placing agency licensed under the laws of Indiana.

(4) An attorney licensed to practice law in Indiana.

(5) A prospective biological parent or adoptive parent acting on the individual's own behalf.

(d) A person who knowingly or intentionally provides, engages in, or facilitates adoption services to a birth parent who lives in Indiana commits unauthorized adoption facilitation, a Class A misdemeanor.

(e) Subsection (f) does not apply to the following persons:

(1) The department of child services, an agency or person authorized to act on behalf of the department of child services, or a similar agency or county office with similar responsibilities in another state.

(2) The division of family resources, an agency or person authorized to act on behalf of the division of family resources, or a similar agency or county office with similar responsibilities in another state.

(3) A child placing agency licensed under the laws of Indiana or another state.

(4) An attorney licensed to practice law in Indiana or another state.

(5) A prospective biological parent or adoptive parent acting on the individual's own behalf.

(f) A person who knowingly or intentionally provides, engages in, or facilitates adoption services to a prospective adoptive parent who lives in Indiana commits unauthorized adoption facilitation, a Class A misdemeanor.

As added by P.L.146-2007, SEC.21. Amended by P.L.146-2008, SEC.685; P.L.21-2010, SEC.11; P.L.31-2011, SEC.1.

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2024 Kansas Statutes

59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; licensure of person placing advertisement; definitions. (a) Except as otherwise provided in this section:

(1) Any person who advertises that such person will provide adoption-related services or adopt, find an adoptive home for a child or otherwise place a child for adoption shall state in such advertisement whether or not such person is licensed and if licensed, under what authority such license is issued and in what profession;

(2) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and

(3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.

(b) The provisions of subsection (a)(1) shall not apply to the Kansas department for children and families or to an individual seeking to adopt a child. The provisions of subsection (a)(3) shall not apply to the Kansas department for children and families, an individual seeking to adopt a child, an agency or an attorney.

(c) As used in this section:

(1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast, telephone directory or electronic medium.

(2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity.

(3) "Maternity center" means the same as provided in K.S.A. 65-503, and amendments thereto.

(d) Any person who violates the provisions of this section shall be guilty of an unclassified misdemeanor and shall be fined not more than \$1,000 for each violation.

History: L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; L. 2008, ch. 140, § 1; L. 2014, ch. 115, § 202; L. 2018, ch. 118, § 10; July 1.

199.590 Prohibited acts and practices in adoption of children -- Expenses paid by prospective adoptive parents to be submitted to court.

- (1) A person, corporation, or association shall not advertise in any manner that it will receive children for the purpose of adoption. A newspaper published in the Commonwealth of Kentucky or any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky shall not contain an advertisement which solicits children for adoption or solicits the custody of children.
- (2) A person, agency, institution, or intermediary shall not sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. This section shall not prohibit a child-placing agency from charging a fee for adoption services. This section shall not be construed to prohibit in vitro fertilization. For purposes of this section, "in vitro fertilization" means the process by which an egg is removed from a woman, and fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.
- (3) No person, association, or organization, other than the cabinet or a child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. This subsection shall not be construed to limit the Cabinet for Health and Family Services in carrying out its public assistance under Title IV-A of the Federal Social Security Act program in accordance with KRS Chapter 205. This section shall not be construed to prohibit private independent adoption or the right to seek legal services relating to a private independent adoption.
- (4) A person, agency, institution, or intermediary shall not be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artificial insemination. A person, agency, institution, or intermediary shall not receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.
- (5) A person, organization, group, agency, or any legal entity, except a child-placing agency, shall not accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted. This section shall not interfere with the legitimate practice of law by an attorney.
- (6)
 - (a) In every adoption proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parents for any purpose related to the adoption shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of expenses for the court's approval or modification.
 - (b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the adoptive parents shall not have any claim against the adoptive parents for the amount not approved.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 185, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 148, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 242, sec. 12, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 52, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 119, sec. 1, effective July 13, 1984. -- Created 1950 Ky. Acts ch. 125, sec. 22.

RS 46:1425

§1425. Adoption services; requirements for advertising; injunctive relief; exceptions; penalties

A. It shall be prohibited for an adoption facilitator, as is defined in R.S. 46:1426, to advertise for adoption services.

B. It shall be unlawful for any person other than a licensed child-placing agency or a Louisiana-based crisis pregnancy center or Louisiana-based pregnancy resource center to advertise through print or electronic media that it will adopt children or assist in the adoption of children.

C. If any person advertises in violation of this Section, the attorney general, the Department of Children and Family Services, the appropriate district attorney, or any licensed child-placing agency or a Louisiana-based crisis pregnancy center may file suit in district court according to the general rules of venue to obtain injunctive relief to restrain the person from continuing the violation.

D. Nothing in this Section shall apply to any individual licensed to practice law in this state while such individual is engaged in the practice of law or to any individual licensed to provide mental health counseling as provided in Children's Code Article 1120 and preplacement and home studies as provided in Children's Code Article 1173.

E. Anyone who violates the provisions of this Section shall be liable for all costs of any proceeding brought to enjoin such violation, including reasonable attorney fees, which shall be set by the court.

Acts 1997, No. 1070, §1; Acts 2013, No. 179, §1, eff. Jan. 1, 2014; Acts 2024, No. 362, §1.

§9-313. Advertisement

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Advertise" means to communicate by any public medium that originates within this State, including by newspaper, periodical, telephone book listing, outdoor advertising sign, radio or television, or by any computerized communication system, including by e-mail, website, Internet account or any similar medium of communication provided via the Internet. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. "Internet account" means an account created within a bounded system established by an Internet-based service that requires a user to input or store access information in an electronic device in order to view, create, use or edit the user's account information, profile, display, communications or stored data. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Advertising prohibited. A person may not:

A. Advertise for the purpose of finding a child to adopt or to otherwise take into permanent physical custody; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Advertise that the person will find an adoptive home or any other permanent physical placement for a child or arrange for or assist in the adoption, adoptive placement or any other permanent physical placement of a child; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Advertise that the person will place a child for adoption or in any other permanent physical placement; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Advertise for the purpose of finding a person to adopt or otherwise take into permanent custody a particular child. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Exceptions. This section does not prohibit:

A. The department or a child-placing agency from advertising in accordance with rules adopted by the department; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. An attorney licensed to practice in this State from advertising the attorney's availability to practice or provide services relating to the adoption of children. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Violation. A person who violates subsection 2 commits a civil violation for which a fine of not more than \$5,000 may be adjudged.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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PROBATE CODE OF 1939 (EXCERPT)

Act 288 of 1939

710.55 Persons authorized to place child for adoption or advertise for, solicit, or recruit biological or adoptive parents or guardians; violation as misdemeanor; penalty; “advertise for, solicit, or recruit” defined.

Sec. 55.

(1) Only a person specified in sections 23a(1), 23b(1), and 23c of this chapter may place a child for adoption. A prospective adoptive parent may advertise for, solicit, or recruit biological parents or guardians of potential adoptees for the purposes of a court-supervised adoption. A biological parent or guardian, the court, department, or child placing agency with authority to place a child may advertise for, solicit, or recruit potential adoptive parents only to fulfill the purposes of a court-supervised adoption of that child. No other person or entity may advertise for, solicit, or recruit prospective parents for the purpose of facilitating the transfer, adoption, or other permanent placement of a child.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both, for the first violation, and of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both, for each subsequent violation. The court may enjoin from further violations any person who violates this section.

(3) As used in this section, "advertise for, solicit, or recruit" means to communicate in person, in writing, or via any medium, public or private, for the purpose of locating a previously unknown person or entity with whom to temporarily or permanently place a child. Advertise for, solicit, or recruit does not include disseminating information about the availability of an attorney's legal services, including an advertisement or website as allowed under the Michigan rules of professional conduct.

History: Add. 1994, Act 222, Eff. Jan. 1, 1995 ;-- Am. 2016, Act 481, Eff. Apr. 6, 2017 ;-- Am. 2020, Act 183, Imd. Eff. Oct. 8, 2020

Popular Name: Probate Code

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Mississippi Code 1972 (2024)
Title 43 - PUBLIC WELFARE (§§ 43-1-1
— 43-63-7)
Chapter 15 - CHILD WELFARE (§§ 43-
15-1 — 43-15-401)
Article 3 - LICENSING OF FAMILY
FOSTER HOMES, CHILD-CARING
AGENCIES AND CHILD-PLACING
AGENCIES (§§ 43-15-101 — 43-15-125)
Section 43-15-117 - General
restrictions; advertising restrictions;
no licensing requirement for attorney
providing legal services in connection
with adoption; regulation of fees;
written disclosure of fees and charges

Universal Citation:

MS Code § 43-15-117 (2024) ○

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(1) Except as provided in this article, no person, agency, firm, corporation, association or group children's home may engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the department. No out-of-state child-placing agency that provides a full range of services, including, but not limited to, adoptions, foster family homes, adoption counseling services or financial aid, may operate in this state without a valid license issued by the department. No child-placing agency shall advertise in the media markets in Mississippi seeking birth mothers or their children for adoption purposes unless the agency holds a valid and current license issued either by the department or the authorized governmental licensing agency of another state that regulates child-placing agencies. Any child-placing agency, physician or attorney who advertises for child placing or adoption services in Mississippi shall be required by the department to show their principal office location on all media advertising for adoption services.

(2) An attorney who provides legal services to a client in connection with proceedings for the adoption of a child by the client, who does not receive, accept or provide custody or care for the child for the purposes specified in Section 43-15-103(c), shall not be required to have a license under this article to provide those legal services.

(3) An attorney, physician or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted. However, no payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for that assistance.

(4) Nothing in this section precludes payment of reasonable fees for medical, legal or other lawful services rendered in connection with the care of a mother, delivery and care of a child including, but not limited to, the mother's living expenses, or counseling for the parents and/or the child, and for the legal proceedings related to lawful adoption proceedings; and no provision of this section abrogates the right of procedures for independent adoption as provided by law.

(5) The department is specifically authorized to promulgate rules under the Administrative Procedures Law, Title 25, Chapter 43, Mississippi Code of 1972, to regulate fees charged by licensed child-placing agencies, if it determines that the practices of those licensed child-placing agencies demonstrates that the fees charged are excessive or that any of the agency's practices are deceptive or misleading; however, those rules regarding fees shall take into account the use of any sliding fee

by an agency that uses a sliding fee procedure to permit prospective adoptive parents of varying income levels to utilize the services of those agencies or persons.

(6) The department shall promulgate rules under the Administrative Procedures Law, Title 25, Chapter 43, Mississippi Code of 1972, to require that all licensed child-placing agencies provide written disclosures to all prospective adoptive parents of any fees or other charges for each service performed by the agency or person, and file an annual report with the department that states the fees and charges for those services, and to require them to inform the department in writing thirty (30) days in advance of any proposed changes to the fees or charges for those services.

(7) The department is specifically authorized to disclose to prospective adoptive parents or other interested persons any fees charged by any licensed child-placing agency, attorney or counseling service or counselor for all legal and counseling services provided by that licensed child-placing agency, attorney or counseling service or counselor.

Laws, 2000, ch. 379, § 9; Laws, 2004, ch. 527, § 3; Laws, 2005, ch. 476, § 1; Laws, 2007, ch. 496, § 2, eff. 7/1/2007.

Amended by Laws, 2023, ch. 516, HB 1149, § 48, eff. 7/1/2023.

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Montana Code Annotated 2025

TITLE 42. ADOPTION

CHAPTER 7. FEES AND PROHIBITED ACTIVITIES RELATED TO ADOPTION

Part 1. General Fees and Activities

Prohibited Activities -- Violations -- Penalties

42-7-105. Prohibited activities -- violations -- penalties. (1) A person, other than the department, an attorney or health care provider acting under **52-8-103(2)**, or a licensed child-placing agency, may not:

(a) advertise in any public medium that the person:

(i) knows of a child who is available for adoption; or

(ii) is willing to accept a child for adoption or knows of prospective adoptive parents for a child; or

(b) engage in placement activities as defined in **52-8-101**.

(2) An individual other than an extended family member or stepparent of a child may not obtain legal or physical custody of a child for purposes of adoption unless the individual has a favorable preplacement evaluation or a court-ordered waiver of the evaluation.

(3) A person who, as a condition for placement, relinquishment, or consent to the adoption of a child, knowingly offers, gives, agrees to give, solicits, accepts, or agrees to accept from another person, either directly or indirectly, anything other than the fees allowed under **42-7-101** commits the offense of paying or charging excessive adoption process fees.

(4) It is illegal to require repayment or reimbursement of anything provided to a birth parent under **42-7-101**. All payments by the adoptive parent made on behalf of a birth parent pursuant to this section are considered a gift to the birth parent.

(5) Nothing in this section prohibits a licensed child-placing agency from maintaining a separate program for the assistance of a biological parent who is in need of postadoptive counseling and support as provided in **42-4-211**. Services must be provided based on need and may not be contingent on a placement being made privately, by the department, or by a licensed child-placing agency. A postadoptive counseling and support program may not be used to induce a biological parent to place a child for adoption.

(6) A person convicted of the offense of paying or charging excessive adoption process fees, attempting to recover expenses incurred from an adoption process, or otherwise violating this title may be fined an amount not to exceed \$10,000 in an action brought by the appropriate city or county attorney. The court may also enjoin from further violations any person who violates this title.

History: En. Sec. 149, Ch. 480, L. 1997; amd. Sec. 3, Ch. 151, L. 2009; amd. Sec. 1, Ch. 528, L. 2021.

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2025 New Hampshire Revised Statutes Title XII - Public Safety and Welfare Chapter 170-B - Adoption Section 170-B:32 - Unauthorized Advertising for Adoption Purposes; Exceptions; Penalty.

Universal Citation:

NH Rev Stat § 170-B:32 (2025) ○

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170-B:32 Unauthorized Advertising for Adoption Purposes; Exceptions; Penalty. –

I. In this section:

(a) "Advertise through a public medium" means to communicate by any public medium, including by newspaper, periodical, telephone book listing, outdoor advertising sign, radio, television, or by computerized communication system, which includes an Internet site, an Internet profile, or any similar medium of communication provided via the Internet.

"Advertising through a public medium" does not include communicating through personal or work electronic mail, text, or telephone.

(b) "Another jurisdiction" means the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States, an Indian tribe, or a state of the United States other than New Hampshire.

(c) "Child" means a person less than 18 years of age.

II. Except as described in paragraph III, it is unlawful to advertise through a public medium for one of the following purposes:

- (a) To find a child to adopt or to otherwise take permanent physical custody of a child;
- (b) To find an adoptive home or any other permanent physical placement for a child or to arrange for or assist in the adoption, adoptive placement, or any other permanent physical placement of a child; or
- (c) To offer to place a child for adoption or in any other permanent physical placement with another person.

III. Paragraph II shall not apply to:

- (a) An employee of the department of health and human services or a licensed child-placing agency, who is acting within the scope of his or her employment to place a child for adoption or in foster care;
- (b) An adoption exchange whose membership includes licensed child-placing agencies that provide information and referral services to find adoptive homes and to promote adoption;
- (c) An individual or organization that has entered into an agreement with or is actively working with any of the agencies or entities described in paragraph (a) or (b) to place a child for adoption;
- (d) A person who advertises fertility-related services;
- (e) An individual who has received a favorable recommendation regarding his or her fitness to be an adoptive parent in this state from the department of health and human services or a child-placing agency licensed in this state or in another jurisdiction from an entity authorized by that jurisdiction to conduct studies of potential adoptive homes;
- (f) An individual who expresses a general interest in becoming an adoptive parent; or
- (g) An attorney who is licensed to practice in New Hampshire who advertises his or her availability to practice or provide services relating to the adoption of children.

IV. Unauthorized advertising of a child, as described in paragraph II, is a misdemeanor.

Source. 2016, 159:1, eff. July 1, 2016.

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2025 New Jersey Revised Statutes Title 9 - Children--Juvenile and Domestic Relations Courts Section 9:3-39.1 - Offering, assisting in the placement of child for adoption, conditions.

Universal Citation:

NJ Rev Stat § 9:3-39.1 (2025) ○

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9:3-39.1 Offering, assisting in the placement of child for adoption, conditions.

18. a. A person, firm, partnership, corporation, association, or agency shall not place, offer to place, or materially assist in the placement of any child for adoption in New Jersey unless:

- (1) the person is the parent or guardian of the child, or
- (2) the firm, partnership, corporation, association, or agency is an approved agency to act as agent, finder, or to otherwise materially assist in the placement of any child for adoption in this State, or
- (3) the placement for adoption is with a brother, sister, aunt, uncle, grandparent, birth father, or stepparent of the child, or

(4) the placement is through an intermediary and (a) the person with whom the child is to be placed has been approved for placement for adoption by an approved agency home study which consists of the agency's formal written assessment of the capacity and readiness of the prospective adoptive parents to adopt a child, conducted in accordance with rules and regulations promulgated by the Director of the Division of Child Protection and Permanency;

(b) The birth parent, except one who cannot be identified or located prior to the placement of the child for adoption, shall be offered counseling as to the birth parent's options other than placement of the child for adoption. Such counseling shall be made available by or through an approved licensed agency in New Jersey or in the birth parent's state or country of residence. The fact that counseling has been made available, and the name, address, and telephone number of the agency through which the counseling is available, shall be confirmed in a written document signed by the birth parent and acknowledged in this State pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-2.1) or acknowledged in another state or country pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-6.1) a copy of which shall be provided to the birth parent and the agency conducting the adoption complaint investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-48) and shall be filed with the court prior to termination of parental rights; and

(c) Written notice shall be given to the birth parent, except one who cannot be identified or located prior to the placement of the child for adoption, and the adoptive parent that the decision not to place the child for adoption or the return of the child to the birth parent cannot be conditioned upon reimbursement of expenses by the birth parent to the adoptive parent, and that payments by the adoptive parent are non-refundable. Provision of such notice shall be confirmed in a written document signed by the birth parent and adoptive parent in separate documents which shall be acknowledged in this State pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-2.1) or acknowledged in another state or country pursuant to section 1 of P.L.1991, c.308 (R.S.46:14-6.1), a copy of which shall be provided to the birth parent, and the agency conducting the adoption complaint investigation pursuant to section 12 of P.L.1977, c.367 (C.9:3-48), and shall be filed with the court prior to termination of parental rights.

b. The Superior Court in an action by the Commissioner of Children and Families may enjoin any party found by the court to have violated this section from any further violation of this section.

c. A person, firm, partnership, corporation, association, or agency violating subsection a. of this section shall be guilty of a crime of the third degree.

d. A person, firm, partnership, corporation, association, intermediary, or agency other than an approved agency which pays, seeks to pay, receives, or seeks to receive money or other valuable consideration in connection with the placement of a child for adoption shall be guilty of a crime of the second degree.

e. It shall not be a violation of subsection d. of this section: (1) to pay, provide, or reimburse to a parent of the child, or for a parent of the child to receive payment, provision, or reimbursement for medical, hospital, counseling, or other similar expenses incurred in connection with the birth or any illness of the child, or the reasonable living expenses of the mother of the child during her pregnancy including payments for reasonable food, clothing, medical expenses, shelter, and religious, psychological, vocational, or similar counseling services during the period of the pregnancy and for a period not to exceed four weeks after the termination of the pregnancy by birth or otherwise. These payments may be made directly to the birth mother or on the mother's behalf to the supplier of the goods or services, or

(2) where the child is from a foreign country, reasonable and customary fees and expenses of a foreign agency or attorney for the care or representation of the child during any period of foster or institutional care in the child's country of origin, or

(3) reasonable attorney fees and costs for legal services.

L.1993, c.345, s.18; amended 2006, c.47, s.34; 2012, c.16, s.15.

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Title 21. Crimes and Punishments

Oklahoma Statutes Citationized

Title 21. Crimes and Punishments

Chapter 32A - Trafficking in Children

Section 866 - Trafficking in Children

Cite as: 21 O.S. § 866 (OSCN 2026)

A. 1. The crime of trafficking in children is defined to consist of any of the following acts or any part thereof:

a. the acceptance, solicitation, offer, payment or transfer of any compensation, in money, property or other thing of value, at any time, by any person in connection with the acquisition or transfer of the legal or physical custody or adoption of a minor child, except as ordered by the court or except as otherwise provided by [Section 7505-3.2 of Title 10](#) of the Oklahoma Statutes,

b. the acceptance or solicitation of any compensation, in money, property or other thing of value, by any person or organization for services performed, rendered or purported to be performed to facilitate or assist in the adoption or foster care placement of a minor child, except by the Department of Human Services, a child-placing agency licensed in Oklahoma pursuant to the Oklahoma Child Care Facilities Licensing Act, or an attorney authorized to practice law in Oklahoma. The provisions of this paragraph shall not prohibit an attorney licensed to practice law in another state or an out-of-state licensed child-placing agency from receiving compensation when working with an attorney licensed in this state who is, or when working with a child-placing agency licensed in this state which is, providing adoption services or other services necessary for placing a child in an adoptive arrangement,

c. bringing or causing to be brought into this state or sending or causing to be sent outside this state any child for the purpose of placing such child in a foster home or for the adoption thereof and thereafter refusing to comply upon request with the Interstate Compact on the Placement of Children. Provided, however, that this provision shall have no application to the parent or guardian of the child nor to a person bringing said child into this state for the purpose of adopting the child into such person's own family,

d. the solicitation or receipt of any money or any other thing of value for expenses related to the placement of a child for the purpose of an adoption by the birth parent of the child who at the time of the solicitation or receipt had no intent to consent to eventual adoption,

e. the solicitation or receipt of any money or any other thing of value for expenses related to the placement of a child for adoption by a woman who knows she is not pregnant but who holds herself out to be pregnant and offers to place a child upon birth for adoption,

f. (1) the receipt of any money or any other thing of value for expenses related to the placement of a child for adoption by a birth parent, child-placing agency or attorney who receives, from one or more parties, any money or any other thing of value without disclosing to each prospective adoptive parent, child-placing agency, and attorney the receipt of any money or any other thing of value immediately upon receipt,

(2) the solicitation or receipt of any money or any other thing of value by a birth parent, an attorney or child-placing agency for expenses related to the placement of a child for the purpose of adoption from more than one prospective adoptive family for the adoption of one child. A birth parent, child-placing agency or attorney shall not represent that a child is, or will be, available for adoption to more than one prospective adoptive family at one time,

g. advertising of services for compensation to assist with or effect the placement of a child for adoption or for care in a foster home by any person or organization except by the Department of Human Services, or a child-placing agency licensed in this state. Nothing in this paragraph shall prohibit an attorney authorized to practice law in Oklahoma from the advertisement of legal services related to the adoption of children, and

h. advertisements for and solicitation of a woman who is pregnant to induce her to place her child upon birth for adoption, except by a child-placing agency licensed in this state or an attorney authorized to practice law in Oklahoma. Nothing in this section shall prohibit a person from advertising to solicit a pregnant woman to consider adoptive placement with the person or to locate a child for an adoptive placement into the person's own home, provided that such person has received a favorable preplacement home study recommendation in accordance with [Section 7505-5.1 of Title 10](#) of the Oklahoma Statutes, which shall be verified by the signed written statement of the person or agency which performed the home study, and provided that no money or other thing of value is offered as part of such an inducement except as ordered by the court or except as otherwise provided by [Section 7505-3.2 of Title 10](#) of the Oklahoma Statutes.

2. a. Except as otherwise provided by this section, the violation of any of the subparagraphs in paragraph 1 of this subsection shall constitute a Class B2 felony offense and shall be punishable by imprisonment of up to ten (10) years or a fine of up to Ten Thousand Dollars (\$10,000.00) per violation or both such fine and imprisonment.

b. Prospective adoptive parents who violate subparagraph a of paragraph 1 of this subsection, upon conviction thereof, shall be guilty of a misdemeanor and may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) per violation.

B. 1. No person shall knowingly publish for circulation within the borders of the State of Oklahoma an advertisement of any kind in any print, broadcast or electronic medium, including, but not limited to, newspapers, magazines, telephone directories, handbills, radio or television, which violates subparagraph g or h of paragraph 1 of subsection A of this section.

2. Any person violating the provisions of this subsection shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) per violation.

C. The payment or acceptance of costs and expenses listed in [Section 7505-3.2 of Title 10](#) of the Oklahoma Statutes shall not be a violation of this section as long as the petitioner or birth parent has complied with the applicable procedure specified in Section 7505-3.2 of Title 10 of the Oklahoma Statutes and such costs and expenses are approved by the court.

D. Any person knowingly failing to file an affidavit of all adoption costs and expenses before the final decree of adoption as required by [Sections 7505-3.2 and 7505-6.2 of Title 10](#) of the Oklahoma Statutes shall be guilty of a misdemeanor.

Historical Data

Oregon

Type text here

ORS 109.281

Financial disclosure statement to be filed with petition

- placement report required
- exception
- prohibited fees
- advertising

-
- (1)** Each adoption petition filed pursuant to ORS 109.276 (Petition for adoption) seeking adoption of a minor child shall be accompanied by a written disclosure statement containing an itemized accounting of all moneys paid or estimated to be paid by the petitioner for fees, costs and expenses related to the adoption, including all legal, medical, living and travel expenses. The form of the disclosure statement shall be prescribed by the Department of Human Services after consultation with approved Oregon licensed adoption agencies.
- (2)** A court may not grant a judgment for an adoption of a minor child in the absence of a placement report by the department or an Oregon licensed adoption agency unless the filing of such report has been waived by the department. A court may not grant a judgment for an adoption of a minor child in the absence of a written disclosure statement as described in subsection (1) of this section or in the absence of a verified statement by the petitioner that, to the best of the petitioner's knowledge, no charges, except those reported in the disclosure statement, have been or will be paid in connection with the adoption.
- (3)** A person may not charge, accept or pay or offer to charge, accept or pay a fee for locating a minor child for adoption or for locating another person to adopt a minor child, except that Oregon licensed adoption agencies licensed under ORS chapter 418 may charge reasonable fees for services provided by them.
- (4)** Intentionally left blank — Ed.
- (a)** It is unlawful for any person to advertise:
- (A)** A child offered or wanted for adoption; or

- (B)** That the person is able to place, locate, dispose of or receive a child for adoption.
- (b)** The provisions of paragraph (a) of this subsection do not apply to:
- (A)** The department or a licensed Oregon adoption agency or an agent, employee or person with whom the department or adoption agency has a contract authorizing such actions; **or**
- (B)** A person who has completed a home study as required by ORS 109.276 (Petition for adoption) (7) and has received a favorable recommendation regarding the fitness of the person to be an adoptive parent or the person’s attorney or uncompensated agent. A written declaration by the person who prepared the home study is sufficient verification of compliance with this subparagraph. The person’s attorney must be licensed to practice in Oregon.
- (c)** Nothing in this subsection prohibits an attorney licensed to practice in Oregon from advertising the attorney’s availability to provide services related to the adoption of children.
- (d)** As used in this subsection, unless the context requires otherwise, “advertise” means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast or electronic medium that originates within this state.
[Formerly 109.311]

Location:

https://oregon.public.law/statutes/ors_109.281

Original Source: Section 109.281 – Financial disclosure statement to be filed with petition; placement report required; exception; prohibited fees; advertising, https://www.oregonlegislature.gov/bills_laws/ors/ors109.html (last accessed May 10, 2025).

HISTORY: 2008 Act No. 361, SECTION 2; 2023 Act No. 80 (H.3553), SECTION 8, eff June 19, 2023.

Effect of Amendment

2023 Act No. 80, SECTION 8, in (10), inserted "For purposes of adoption," and made a nonsubstantive change, and in (b), substituted "marginalized ethnic backgrounds, except for purposes of Section 63-9-60(B)" for "mixed racial heritage".

SECTION 63-9-40. Jurisdiction; venue.

(A) The family court has exclusive jurisdiction over all proceedings held pursuant to this article. Proceedings for adoption by residents of this State may be brought in the family court of the county in which the petitioner resides or is in military service, or in the county in which the child resides or is born. For nonresidents of this State proceedings for adoption must be brought in the county in which the child resides, in which the child is born, or in which the agency having custody of the child is located.

(B) The family court may order a change of venue as in civil proceedings in this State.

HISTORY: 2008 Act No. 361, SECTION 2.

SECTION 63-9-50. Children who may be adopted.

Any child present within this State at the time the petition for adoption is filed, irrespective of place of birth or place of residence, may be adopted.

HISTORY: 2008 Act No. 361, SECTION 2.

SECTION 63-9-60. Persons who may adopt.

(A) Any South Carolina resident may petition the court to adopt a child.

(B)(1) Any nonresident of South Carolina may petition the court to adopt a child in the following circumstances only:

(a) the child is a special needs child, as defined by Section 63-9-30;

(b) the child is to be placed for adoption with a relative related biologically or by marriage;

(c) at least one of the adoptive parents is in the military service stationed in South Carolina;

(d) there are unusual or exceptional circumstances such that the best interests of the child would be served by placement with or adoption by nonresidents of this State;

(e) the child has been in foster care for at least six months after having been legally freed for adoption and no South Carolina resident has been identified as a prospective adoptive home;

(f) all persons required to give consent to the adoption pursuant to Section 63-9-310 have specifically consented to the adoption by the nonresident; or

(g) the department or any agency under contract with the department has placed the child with the nonresident for purposes of adoption.

(2) A person who files a petition pursuant to subsections (A) and (B) shall not use public notoriety concerning a child or child's family to support or to evidence his petition to adopt a child.

(3) Before a child is placed within or outside the boundaries of this State for adoption with nonresidents of this State, compliance with Article 11 (Interstate Compact on the Placement of Children) is required, and a judicial determination must be made in this State that one of the circumstances in subsection (B)(1)(a)-(g) applies, whether or not the adoption proceedings are instituted in this State. Additionally, in order to determine if any of the circumstances in subsection (B)(1)(a)-(g) apply so as to permit placement with a nonresident for the purpose of adoption or adoption by a nonresident, a petition may be brought for the determination before the birth of the child or before placement of the child with the prospective adoptive parents. In ruling on this question the court must include in its order specific findings of fact as to the circumstances allowing the placement of a child with a nonresident or the adoption of a child by a nonresident. The court also must analyze the facts against the objective criteria established in Sections 16-3-1060 and 63-9-310(F) and make specific findings in accordance with the pertinent law and evidence presented. The order resulting from this action does not prohibit or waive the right to refuse to consent to a release of rights or relinquish rights at a later time or to withdraw a consent or relinquish at a later time as provided in this article. The order must be merged with and made a part of any subsequent adoption proceeding, which must be initiated and finalized in this State.

(4) Neither the department nor its contractors may delay or deny the placement of a child for adoption by a nonresident if that nonresident has been approved for adoption of the child by another state authorized to approve such placements pursuant to the Interstate Compact on Placement of Children. The department shall provide an opportunity for a hearing, in accordance with the department's fair hearing procedures, to a nonresident who believes that the department, in violation of this section, has delayed or denied placement of a child for adoption.

(C) A petition for adoption of a child may be filed pursuant to this section regardless of which individual or entity has custody of the child. When the department has custody of a child, the rights granted herein to South Carolina residents and nonresidents shall not be diminished, invalidated or negatively affected in any way.

HISTORY: 2008 Act No. 361, SECTION 2; 2010 Act No. 160, SECTION 8, eff May 12, 2010; 2018 Act No. 144 (H.3442), SECTION 1, eff April 4, 2018.

Effect of Amendment

The 2010 amendment changed the last sentence of subparagraph (A)(2) to read, in part, "subsequent adoption proceeding, which must be initiated and finalized in this State"; and made other nonsubstantive changes throughout subparagraph (A)(2).

2018 Act No. 144, SECTION 1, rewrote the section, adding circumstances under which a nonresident may adopt and providing for the right to file a petition for adoption without regard to whom has custody of the child.

SECTION 63-9-70. Advertising prohibited to place or accept child for adoption; exception; penalties.

(A) No person or entity other than the Department of Social Services, a child placing agency licensed in this State, or an attorney licensed in this State may advertise that the person or entity will place or accept a child for adoption.

(B) Notwithstanding the provisions of subsection (A), a person is not prohibited from advertising that the person desires to adopt if the person has a current preplacement home investigation finding that the person is suitable to be an adoptive parent.

(C)(1) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(2) The family court shall enjoin a person or entity from violating a provision of this section.

(D) For purposes of this section, "advertise" means to communicate by newspaper, radio, television, hand bills, placards or other print, broadcast or electronic medium that originates within this State.

HISTORY: 2010 Act No. 160, SECTION 9, eff May 12, 2010.

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2024 Tennessee Code

Title 36 - DOMESTIC RELATIONS (§§ 36-1-101 — 36-8-104)

Chapter 1 - ADOPTION (§§ 36-1-101 — 36-1-305)

Part 1 - GENERAL PROVISIONS (§§ 36-1-101 — 36-1-149)

Section 36-1-108 - Entities authorized to place children for adoption - Advisory and agency capacity authorized - Injunction to stop illegal payments

Universal Citation:

TN Code § 36-1-108 (2024) ○

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(a)

(1) No person, corporation, agency, or other entity, except the department or a licensed child-placing agency or licensed clinical social worker, as defined in § 36-1-102, shall engage in the placement of children for adoption; provided, that

this section shall not be construed to prohibit any person from advising parents of a child or prospective adoptive parents of the availability of adoption, or from acting as an agent or attorney for the parents of a child or prospective adoptive parents in making necessary arrangements for adoption so long as no remuneration, fees, contributions, or things of value are given to or received from any person or entity for such service other than usual and customary legal and medical fees in connection with the birth of the child or other pregnancy-related expenses, or for counseling for the parents and/or the child, and for the legal proceedings related to the adoption.

(2) Only a licensed child-placing agency, as defined in § 36-1-102, a licensed clinical social worker, as defined in § 36-1-102, prospective adoptive parents, or a lawyer who is subject to the Tennessee supreme court rules regarding lawyer advertising may advertise for the placement of children for adoption in this state. In order to advertise for the placement of children for adoption in Tennessee, out-of-state licensed child placing agencies, licensed clinical social workers or lawyers must:

(A) Be authorized to do business in this state under respective licensing laws; and

(B) Maintain a physical office within this state or incur expenses involved in the transportation of a licensing consultant to the closest physical office of the agency, social worker or lawyer.

(3) Any advertisement in this state for the placement of children for adoption in another state by an agency or individual not licensed or authorized to do such business in this state must clearly disclose on any advertisement in this state for the placement of a child or children for adoption, the name of the government authority by which they are licensed, and that they are not licensed by the state of Tennessee. The disclosure must be in a form similar to "(Person/Entity) is (a child-placing agency/an attorney/a clinical social worker) licensed by (government authority). Not licensed in Tennessee."

(4) It is unlawful for an adoption facilitator to operate in this state, advertise their services within the boundaries of this state, or provide services to any resident of this state including, but not limited to, prospective adoptive parents or parents considering placing their child, whether born or not yet born, for adoption.

(5) A child-placing agency or attorney not licensed in this state must secure the services of a child-placing agency or attorney licensed in this state to provide

adoption-related placement services to any expectant parent or child in this state.

(b) "Placement of a child or children for adoption" means, for purposes of this section and § 36-1-109 and for licensing purposes in title 37, chapter 5, part 5, and for § 37-5-507, that a person, corporation, agency, or other entity is employed, contracted, or engaged, in any manner for any remuneration, fee, contribution, or thing of value, of any type by, or on behalf of, any person:

(1) In the selection of prospective adoptive parents for a child by determining the relative qualifications of prospective adoptive parents in a decision by that person, corporation, agency, or other entity to place any child or children, including specifically, but not limited to, the preparation of home studies, preliminary home studies, court reports for surrenders or adoptions, or the provision of supervision of a child in an adoptive home as part of the adoptive process; or

(2)

(A) In the business of arranging services or assistance directed primarily, and not as an incidental part of its primary business, toward bringing to or placing with prospective adoptive parents a child or children for the purpose of foster care leading to adoption or as an adoptive placement for a child or children, including, but not limited to, advertising for such services, accepting clients for a fee, or providing any placing services for a fee;

(B) Nothing in subdivision (b)(2)(A) shall include the provision of reasonable and necessary legal services related to the adoption proceedings, or medical or counseling services for the child or the parent in connection with the child's birth or in connection with the parent's decision to relinquish the child for adoption or for counseling services for the prospective adoptive parents.

(c)

(1) Any court of competent jurisdiction, upon the filing of a sworn complaint by the department or by a licensed child-placing agency, or by any person aggrieved, may temporarily enjoin or restrain any person, corporation, agency, or other entity from engaging or attempting to engage in placing children for adoption in violation or in threatened violation of this part or title 71, chapter 3, part 5, and upon final hearing, if the court determines that there has been a

violation, or threatened violation, thereof, the injunction shall be made permanent.

(2) If the court finds that any person, corporation, agency, or other entity has engaged in the illegal placement of children for adoption, that person, corporation, agency, or other entity is liable for all the costs of the legal proceedings and for all attorney fees for private persons or private agencies who brought the action, or for the cost of attorney and staff time for the department involved in the proceeding, or for other remedies pursuant to § 29-34-214.

(d)

(1) In order to allow the prospective adoptive parents to have information available to them to permit informed choices regarding the employment of persons or entities involved in the placement of children, or in counseling, or in the provision of legal services, the department shall collect the information concerning fees or other costs charged by licensed child-placing agencies, licensed clinical social workers, attorneys, and counseling services that are disclosed in accordance with §§ 36-1-116(b)(16) and 36-1-120(b).

(2) This information shall be used by the department to develop an informational database in order for the department to provide, upon request of prospective adoptive parents or other interested persons, information concerning fees charged for home studies, placement services, counseling and legal fees. Such information shall be made available by the department in written form to any person so requesting. No employee of the department shall make any recommendation regarding or comment upon any information concerning such attorney, licensed child-placing agency or licensed clinical social worker.

(3) The department is specifically authorized to promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to regulate fees charged by licensed child-placing agencies and licensed clinical social workers or their practices, if it determines that the practices of those licensed child-placing agencies or licensed clinical social workers demonstrate that the fees charged are excessive or that any of the agency's practices are deceptive or misleading; provided, that such rules regarding fees shall take into account the use of any sliding fee by an agency or licensed clinical social worker that or who uses a sliding fee procedure to permit prospective adoptive parents of varying income levels to utilize the services of such agencies or persons.

(4) The department shall promulgate rules pursuant to the Uniform Administrative Procedures Act to require that all licensed child-placing agencies

and licensed clinical social workers provide written disclosures to all prospective adoptive parents of any fees or other charges for each service performed by the agency or person, and file an annual report with the department that states the fees and charges for those services, and to require them to inform the department in writing forty (40) days in advance of any proposed changes to the fees or charges for those services.

(5) The department is specifically authorized to disclose to prospective adoptive parents or other interested persons any fees charged by any licensed child-placing agency, licensed clinical social worker, attorney or counseling service or counselor for all legal and counseling services provided by that licensed child-placing agency, licensed clinical social worker, attorney or counseling service or counselor.

(e)

(1) A person commits an offense who engages or attempts to engage in placing a child or children for adoption in violation of the requirements of this part or title 71, chapter 3, part 5.

(2) A violation of this subsection (e) is a Class A misdemeanor.

Amended by 2024 Tenn. Acts, ch. 996, s 5, eff. 7/1/2024.

Amended by 2023 Tenn. Acts, ch. 361, s 6, eff. 7/1/2023.

Amended by 2023 Tenn. Acts, ch. 361, s 4, eff. 7/1/2023.

Amended by 2023 Tenn. Acts, ch. 361, s 3, eff. 7/1/2023.

Amended by 2018 Tenn. Acts, ch. 875, s 36, eff. 7/1/2018.

Amended by 2018 Tenn. Acts, ch. 758, s 1, eff. 1/1/2019.

Acts 1951, ch. 202, § 36 (Williams, § 9572.50); impl. am. Acts 1975, ch. 219, § 1; T.C.A. (orig. ed.), § 36-135; Acts 1986, ch. 767, § 9; T.C.A., § 36-1-134; Acts 1995, ch. 532, § 1; 1996, ch. 1054, §§ 18, 127; 2000, ch. 981, § 54; 2009, ch. 411, § 4; 2009, ch. 519, §§ 1, 2.

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Use of Advertising and Facilitators in Adoptive Placements - Utah

DATE: JULY 2020

Use of Advertisement

Citation: Ann. Code § 62A-4a-602(3)(b)-(c)

An attorney, physician, or other person may not do the following:

- Issue or cause to be issued to any person a card, sign, or device indicating that he or she is available to provide child-placing assistance
- Cause, permit, or allow any sign or marking on or in any building or structure indicating that he or she is available to provide child-placing assistance
- Announce, cause, permit, or allow an announcement indicating that he or she is available to provide child-placing assistance to appear in any newspaper, magazine, directory, on radio or television, or an internet website relating to a business
- Announce, cause, permit, or allow a matching advertisement
- Announce, cause, permit, or allow an advertisement that indicates or implies that he or she is available to provide child-placing assistance as part of or

related to other adoption-related services by using the terms comprehensive, complete, one-stop, all-inclusive, or any other similar term

An attorney, physician, or other person who is not licensed by the Office of Licensing within the Department of Human Services shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the Office of Licensing.

Use of Intermediaries/Facilitators

Citation: Ann. Code §§ 62A-4a-602(2), (3)(a), (4); 76-7-203

A person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license. When a child-placing agency's license is suspended or revoked, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the Division of Child and Family Services.

An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted. However, no payment, charge, fee, reimbursement of expense, or exchange of value of any kind may be made for that assistance.

Nothing in this part precludes payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings; and no provision of this part abrogates the right of procedures for independent adoption as provided by law.

A person commits a felony when, while having custody, care, control, or possession of a child, he or she sells or disposes of the child, or attempts or offers to sell or dispose of the child, for and in consideration of the payment of money or another thing of value; or when he or she offers, gives, or attempts to give money or another

thing of value to a person with the intent to induce or encourage a person to sell or dispose of a child.

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Washington

RCW 26.38.130

Advertisements—Prohibitions—Exceptions—Application of consumer protection act.

(1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption or other custody transfer, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption or other custody transfer unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption or other custody transfer of children.

(3)(a) A violation of subsection (2) of this section is a matter affecting the public interest and constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW.

(b) The attorney general may bring an action in the name of the state against any person violating the provisions of this section in accordance with the provisions of RCW 19.86.080.

(c) Nothing in this section applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this section after an attempt to verify the advertising is in compliance with this section.

[2022 c 88 s 204; 2006 c 248 s 4; 1991 c 136 s 6; 1989 c 255 s 1. Formerly RCW 26.33.400.]

History: 1989 a. 31, 107; 1995 a. 27, 77.

48.80 Municipalities may sponsor activities.

- (1) Any municipality is hereby authorized and empowered to sponsor the establishment and operation of any committee, agency or council for the purpose of coordinating and supplementing the activities of public and private agencies devoted in whole or in part to the welfare of youth therein. Any municipality may appropriate, raise and expend funds for the purpose of establishing and of providing an executive staff to such committees, agencies or councils; may levy taxes and appropriate money for recreation and welfare projects; and may also receive and expend moneys from the state or federal government or private persons for such purposes.
- (2) No provision of this section shall be construed as vesting in any youth committee, council or agency any power, duty or function enjoined by law upon any municipal officer, board or department or as vesting in such committee, council or agency any supervisory or other authority over such officer, board or department.
- (3) In this section municipality means a county, city, village or town.

SUBCHAPTER XIX

ADOPTION OF MINORS; GUARDIANSHIP

48.81 Who may be adopted. Any child who is present in this state at the time the petition for adoption is filed may be adopted if any of the following criteria are met:

- (1) Both of the child's parents are deceased.
- (2) The parental rights of both of the child's parents with respect to the child have been terminated under subch. VIII or in another state or a foreign jurisdiction.
- (3) The parental rights of one of the child's parents with respect to the child have been terminated under subch. VIII or in another state or a foreign jurisdiction and the child's other parent is deceased.
- (4) The person filing the petition for adoption is the spouse of the child's parent with whom the child and the child's parent reside and either of the following applies:
 - (a) The child's other parent is deceased.
 - (b) The parental rights of the child's other parent with respect to the child have been terminated under subch. VIII or in another state or a foreign jurisdiction.
- (5) Section 48.839 (3) (b) applies.
- (6) The child is being adopted under s. 48.97 (3).

History: 1987 a. 383; 1989 a. 161; 1997 a. 104; 2015 a. 380.

NOTE: 1997 Wis. Act 104, which affected this section, contains explanatory notes.

Under this section, the nonmarital partner of a child's biological parent is not eligible to adopt the child because the nonmarital partner is not the biological parent's spouse. That legislative limit on eligibility to adopt a child does not violate the equal protection clause of the 14th amendment to the U.S. Constitution. *A.M.B. v. Circuit Court*, 2024 WI 18, 411 Wis. 2d 389, 5 N.W.3d 238, 22-1334.

48.82 Who may adopt.

- (1) The following persons are eligible to adopt a minor if they are residents of this state:
 - (a) A husband and wife jointly, or either the husband or wife if the other spouse is a parent of the minor.
 - (b) An unmarried adult.
- (3) When practicable and if requested by the birth parent, the adoptive parents shall be of the same religious faith as the birth parents of the person to be adopted.
- (4) No person may be denied the benefits of this subchapter because of a religious belief in the use of spiritual means through prayer for healing.

- (5) Although otherwise qualified, no person shall be denied the benefits of this section because the person is deaf, blind or has other physical handicaps.
- (6) No otherwise qualified person may be denied the benefits of this subchapter because of his or her race, color, ancestry or national origin.

History: 1981 c. 359 s. 16; 1983 a. 350; 1989 a. 161; 1991 a. 316.

Standing to object to adoption proceedings turns on the right to petition for adoption; grandparents excluded from petitioning under s. 48.90 (1) (a) had no standing to object to the adoption of their grandchildren. *L.P. v. B.G.*, 177 Wis. 2d 424, 501 N.W.2d 908 (Ct. App. 1993).

48.825 Advertising related to adoption.

(1) In this section:

- (a) “Advertise” means to communicate by any public medium that originates within this state, including by newspaper, periodical, telephone book listing, outdoor advertising sign, radio, or television, or by any computerized communication system, including by electronic mail, Internet site, Internet account, or any similar medium of communication provided via the Internet.
- (b) “Another jurisdiction” means a state of the United States other than Wisconsin, the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States or an Indian tribe.
- (c) “Internet account” means an account created within a bounded system established by an Internet-based service that requires a user to input or store access information in an electronic device in order to view, create, use, or edit the user’s account information, profile, display, communications, or stored data.

(2) Except as provided in sub. (3), no person may do any of the following:

- (a) Advertise for the purpose of finding a child to adopt or to otherwise take into permanent physical custody.
- (b) Advertise that the person will find an adoptive home or any other permanent physical placement for a child or arrange for or assist in the adoption, adoptive placement, or any other permanent physical placement of a child.
- (c) Advertise that the person will place a child for adoption or in any other permanent physical placement.

(3) This section does not apply to any of the following:

- (a) The department, a county department, or a child welfare agency licensed under s. 48.60 to place children for adoption, in licensed foster homes or group homes, or in the homes of guardians under s. 48.977 (2).
- (b) An individual or agency providing adoption information under s. 48.55.
- (c) A foster care and adoption resource center funded by this state or a postadoption resource center funded by this state.
- (d) An individual who has received a favorable recommendation regarding his or her fitness to be an adoptive parent in this state from the department, a county department or a child welfare agency licensed under s. 48.60 or in another jurisdiction from an entity authorized by that jurisdiction to conduct studies of potential adoptive homes.

(3m) No person may publish by a public medium an advertisement that violates this section. If the owner, agent, or employee of the public medium receives a copy of the license of the person or agency requesting the advertisement that indicates that the person or agency is licensed to provide adoption services in this state, there is a rebuttable presumption that the advertisement does not violate this section.

(4) Nothing in this section prohibits an attorney licensed to practice in this state from advertising his or her availability to practice or provide services relating to the adoption of children.

(5) Any person who violates sub. (2) or (3m) may be fined not more than \$10,000 or imprisoned not more than 9 months or both.

History: 1997 a. 104; 1999 a. 9; 2005 a. 293; 2009 a. 94; 2013 a. 314.

NOTE: 1997 Wis. Act 104, which affected this section, contains explanatory notes.

48.83 Jurisdiction and venue.

(1) Except as provided in s. 48.028 (3) (b), the court of the county where the proposed adoptive parent or child resides or the court of the county where a petition for termination of parental rights to the child

was filed or granted under subch. VIII, upon the filing with that court of a petition for adoption or for the adoptive placement of a child, has jurisdiction over the child until the petition is withdrawn, denied, or granted. Venue in a proceeding for adoption or adoptive placement of a child shall be in the county where the proposed adoptive parent or child resides at the time the petition is filed or in the county where a petition for termination of parental rights to the child was filed or granted under subch. VIII. The court may transfer the case to a court in the county in which the proposed adoptive parents reside.

- (2) If the adoption is denied, jurisdiction over the child shall immediately revert to the court which appointed the guardian, unless the appointing court is a court of another state or foreign jurisdiction, in which case the court of the county where the child is shall have jurisdiction.

History: 1975 c. 39; 1977 c. 449 s. 497; 1981 c. 81, 391; 1989 a. 161; 2009 a. 94; 2015 a. 378.

48.831 Appointment of guardian for child without a living parent for adoptability finding.

- (1) **TYPE OF GUARDIANSHIP.** This section may be used for the appointment of a guardian of a child who does not have a living parent if a finding as to the adoptability of a child is sought. Except as provided in ss. 48.977 and 48.978, s. 48.9795 applies to the appointment of a guardian for a child who does not have a living parent for all other purposes. An appointment of a guardian of the estate of a child who does not have a living parent shall be conducted in accordance with the procedures specified in ch. 54.

- (1m) **PETITION.** Any of the following may file a petition for appointment of a guardian for a child who is believed to be in need of protection or services because he or she is without a living parent as described under s. 48.13 (1):

(a) The department.

(b) A county department.

(c) A child welfare agency licensed under s. 48.61 (5) to accept guardianship.

(d) A relative or family member of the child or a person whom the child has resided with and who has also acted as a parent of the child.

(e) A guardian appointed under s. 48.9795, ch. 54, 2017 stats., or ch. 880, 2003 stats., whose resignation as guardian has been accepted by a court under s. 48.9795 (11), s. 54.54 (1), 2017 stats., or s. 880.17 (1), 2003 stats.

- (1r) **NOTICE.** When a petition is filed under sub. (1m), the court shall provide notice of the fact-finding hearing under sub. (3) to all interested parties as provided in s. 48.27 (6). If the court knows or has reason to know that the child is an Indian child, the court shall provide notice to the Indian child's Indian custodian, if any, and tribe, if known, in the manner specified in s. 48.028 (4) (a). No hearing may be held under sub. (3) until at least 10 days after receipt of the notice by the Indian child's Indian custodian and tribe or, if the identity or location of the Indian child's Indian custodian or tribe cannot be determined, until at least 15 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's Indian custodian or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

- (2) **REPORT.** If the department, county department, or child welfare agency files a petition, the court shall order the department, county department, or child welfare agency to file a report with the court containing as much of the information specified under s. 48.425 (1) (a) and (am) as is reasonably ascertainable and, if applicable, the information specified under s. 48.425 (1) (g). If the petition is filed by a relative or other person specified under sub. (1m) (d), the court shall order the department or a child welfare agency, if the department or agency consents, or a county department to file a report containing the information specified in this subsection. If the child is an Indian child, the court may order the department, county department, or child welfare agency, or request the tribal child welfare department of the Indian child's tribe, if that department consents, to file a report containing the information specified in this subsection. The department, county department, child welfare agency, or tribal child welfare department, if that department consents, shall file the report at least 5 days before the date of the fact-finding hearing on the petition.

- (3) **FACT-FINDING HEARING.** The court shall hold a fact-finding hearing on the petition, at which any party may present evidence relevant to the issue of whether the child has a living parent. If the court finds that the child has a living parent, the court shall dismiss the petition or grant the petitioner leave to amend the petition to a petition under s. 48.42 (1).

- (4) **DISPOSITIONAL HEARING.**

(a) If the court, at the conclusion of the fact-finding hearing, finds that the child has no living parent, the court shall proceed to a dispositional hearing. Any party may present evidence, including expert

testimony, relevant to the issue of disposition. In determining the appropriate disposition, the court shall consider any factors under s. 48.426 (3) (a) to (d) that are applicable.

- (b) If the court finds that adoption is in the child's best interest, the court shall order that the child be placed in the guardianship and custody of one of the following:
1. A county department authorized to accept guardianship under s. 48.57 (1) (e) or (hm).
 2. A child welfare agency licensed under s. 48.61 (5) to accept guardianship.
 3. The department.
- (c) If the court finds that adoption is not in the child's best interest, the court shall order that the child be placed in the guardianship of the department and place the child in the custody of a county department or, in a county having a population of 750,000 or more, the department or an agency under contract with the department.
- (cm) If the child is an Indian child who is in the custody of an Indian custodian, the court may not remove the child from the custody of the Indian custodian under par. (c) unless the court finds by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian child by the Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and the court finds that active efforts under s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family and that those efforts have proved unsuccessful. In placing an Indian child following a transfer of guardianship and custody under par. (b) or (c), the custodian appointed under par. (b) or (c) shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless there is good cause, as described in s. 48.028 (7) (e), for departing from that order.
- (d) Section 48.43 (5), (5m) and (7) applies to orders under pars. (b) and (c).
- (e) The court shall order the custodian appointed under par. (b) or (c) to prepare a permanency plan under s. 48.38 for the child within 60 days after the date of the order. A permanency plan ordered under this paragraph is subject to review under s. 48.38 (5). In preparing a permanency plan, the department, county department or child welfare agency need not include any information specified in s. 48.38 (4) that relates to the child's parents or returning the child to his or her home. In reviewing a permanency plan, a court or panel need not make any determination under s. 48.38 (5) (c) that relates to the child's parents or returning the child to his or her home.

History: 1989 a. 161; 1995 a. 73, 275; 1997 a. 27, 334; 2005 a. 387; 2009 a. 94; 2015 a. 172; 2019 a. 109; 2021 a. 240 s. 30.

48.832 Transfer of guardianship upon revocation of guardian's license or contract. If the department revokes the license of a county department licensed under s. 48.57 (1) (hm) to accept guardianship, or of a child welfare agency licensed under s. 48.61 (5) to accept guardianship, or if the department terminates the contract of a county department licensed under s. 48.57 (1) (e) to accept guardianship, the department shall file a motion in the court that appointed the guardian for each child in the guardianship of the county department or agency, requesting that the court transfer guardianship and custody of the child. The motion may specify a county department or child welfare agency that has consented to accept guardianship of the child. The court shall transfer guardianship and custody of the child either to the county department or child welfare agency specified in the motion or to another county department under s. 48.57 (1) (e) or (hm) or a child welfare agency under s. 48.61 (5) which consents to the transfer. If no county department or child welfare agency consents, the court shall transfer guardianship and custody of the child to the department.

History: 1989 a. 161; 1997 a. 27.

48.833 Placement of children for adoption by the department, county departments, and child welfare agencies.

- (1) **PLACEMENT BY DEPARTMENT OR COUNTY DEPARTMENT.** The department or a county department under s. 48.57 (1) (e) or (hm) may place a child for adoption in a licensed foster home without a court order if the department or county department is the guardian of the child or makes the placement at the request of another agency that is the guardian of the child, if the investigation made under s. 48.75 (3) has been supplemented to evaluate whether the home is suitable for the child, and if the proposed adoptive parents have completed the preadoption preparation required under s. 48.84 (1) or the department or county department determines that the proposed adoptive parents are not required to complete that preparation. The department or a county department under s. 48.57 (1) (e) or (hm) may also place a child for adoption in a licensed foster home without a court order under s. 48.63 (3) (b). When a child is placed under this subsection in a licensed foster home for adoption, the department or county department making the placement shall enter into a written agreement with the proposed adoptive

parent, which shall state the date on which the child is placed in the licensed foster home for adoption by the proposed adoptive parent.

- (2) **PLACEMENT BY CHILD WELFARE AGENCY.** A child welfare agency licensed under s. 48.60 may place a child for adoption in a licensed foster home without a court order if the child welfare agency is the guardian of the child or makes the placement at the request of another agency that is the guardian of the child, if the investigation made under s. 48.75 (3) has been supplemented to evaluate whether the home is suitable for the child, and if the proposed adoptive parents have completed the preadoption preparation required under s. 48.84 (1) or the child welfare agency determines that the proposed adoptive parents are not required to complete that preparation. A child welfare agency licensed under s. 48.60 may also place a child for adoption in a licensed foster home without a court order under s. 48.63 (3) (b). When a child is placed under this subsection in a licensed foster home for adoption, the child welfare agency making the placement shall enter into a written agreement with the proposed adoptive parent, which shall state the date on which the child is placed in the licensed foster home for adoption by the proposed adoptive parent.
- (3) **INDIAN CHILD; PLACEMENT PREFERENCES.** In placing an Indian child for adoption under sub. (1) or (2), the department, county department, or child welfare agency shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the department, county department, or child welfare agency finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

History: 1981 c. 81, 384; 1985 a. 176; 1989 a. 336; 1993 a. 446; 1995 a. 275; 2005 a. 293, 448; 2007 a. 96, 186; 2009 a. 28, 94; 2015 a. 378.

48.834 Placement of children with relatives or siblings for adoption by the department, county departments, and child welfare agencies.

- (1) **PLACEMENT WITH RELATIVES.** Before placing a child for adoption under s. 48.833, the department, county department under s. 48.57 (1) (e) or (hm), or child welfare agency making the placement shall consider the availability of a placement for adoption with a relative of the child who is identified in the child's permanency plan under s. 48.38 or 938.38 or who is otherwise known by the department, county department, or child welfare agency.
- (2) **PLACEMENT WITH SIBLINGS.** If a child who is being placed for adoption under s. 48.833 has one or more siblings, as defined in s. 48.38 (4) (br) 1., who have been adopted or who have been placed for adoption, the department, county department under s. 48.57 (1) (e) or (hm), or child welfare agency making the placement shall make reasonable efforts to place the child for adoption with an adoptive parent or proposed adoptive parent of such a sibling who is identified in the child's permanency plan under s. 48.38 or 938.38 or who is otherwise known by the department, county department, or child welfare agency, unless the department, county department, or child welfare agency determines that a joint placement would be contrary to the safety or well-being of the child or any of those siblings, in which case the department, county department, or child welfare agency shall make reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the department, county department, or child welfare agency determines that such visitation or interaction would be contrary to the safety or well-being of the child or any of those siblings.

History: 2005 a. 448; 2009 a. 79.

48.835 Placement of children with relatives for adoption.

- (1) **DEFINITION.** In this section and s. 48.837, "custody" means physical custody of a child by the child's parent not in violation of a custody order issued by a court. "Custody" does not include physical custody of a child during a period of physical placement with a parent who does not have legal custody of the child.
- (2) **ADOPTIVE PLACEMENT.** A parent having custody of a child may place the child for adoption in the home of a relative of the child without a court order.
- (3) **PETITION FOR TERMINATION OF PARENTAL RIGHTS REQUIRED; EXCEPTION.**

2023-24 Wisconsin Statutes updated through 2025 Wis. Act 87 and through all Supreme Court Orders and Controlled Substances Board Orders filed before and in effect on March 1, 2026. Published and certified under s. 35.18. Changes effective after March 1, 2026, are designated by NOTES. (Published 3-1-26)