

**Senate File 207 - Introduced**

SENATE FILE 207

BY ZAUN

**A BILL FOR**

1 An Act relating to termination of parental rights and adoption  
2 proceedings, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.9, subsection 2, paragraph c, Code  
2 2017, is amended to read as follows:

3 c. Add the amount by which expenses paid or incurred  
4 in connection with the adoption of a child by the taxpayer  
5 exceed three percent of the net income of the taxpayer, or of  
6 the taxpayer and spouse in the case of a joint return. The  
7 expenses may include medical and hospital expenses of the  
8 biological mother which are incident to the child's birth and  
9 are paid by the taxpayer, welfare agency fees, legal fees, and  
10 all other fees and costs relating to the adoption of a child if  
11 the child is placed by a ~~child-placing agency licensed under~~  
12 ~~chapter 238~~ or by a person making an independent placement  
13 an adoption service provider according to the provisions of  
14 chapter 600. If the taxpayer claims an adoption tax credit  
15 under section 422.12A, the taxpayer shall recompute for  
16 purposes of this subsection the amount of the deduction by  
17 excluding the amount of qualified adoption expenses, as defined  
18 in section 422.12A, used in computing the adoption tax credit.

19 Sec. 2. Section 422.12A, subsection 1, paragraph a, Code  
20 2017, is amended to read as follows:

21 a. "Adoption" means the permanent placement in this state  
22 of a child by the department of human services, by a ~~licensed~~  
23 ~~agency under chapter 238~~ an adoption service provider as  
24 defined in section 600A.2, or, by an agency that meets the  
25 provisions of the interstate compact in section 232.158, ~~or~~  
26 ~~by a person making an independent placement according to the~~  
27 ~~provisions of chapter 600.~~

28 Sec. 3. Section 600.2, subsection 1, Code 2017, is amended  
29 to read as follows:

30 1. "Child", "parent", "parent-child relationship",  
31 "termination of parental rights", "biological parent",  
32 "stepparent", "guardian", "custodian", "guardian ad litem",  
33 "minor", "adoption service provider", "certified adoption  
34 investigator", "adult", "agency", "department", "court", and  
35 "juvenile court", ~~"independent placement"~~ mean the same as

1 defined in [section 600A.2](#).

2 Sec. 4. Section 600.8, subsection 1, paragraph c,  
3 subparagraph (1), Code 2017, is amended to read as follows:

4 (1) A background information investigation of the medical  
5 and social history of the biological parents of the minor  
6 person to be adopted and a report of the investigation shall be  
7 made by the ~~agency, the person making an independent placement~~  
8 adoption service provider, the department, or an a certified  
9 adoption investigator prior to the placement of the minor  
10 person to be adopted with any prospective adoption petitioner.

11 Sec. 5. Section 600.8, subsection 2, paragraph a,  
12 subparagraph (1), Code 2017, is amended to read as follows:

13 (1) A preplacement investigation and report of the  
14 investigation shall be completed and the prospective adoption  
15 petitioner approved for a placement by the person making the  
16 investigation prior to any ~~agency or independent~~ adoption  
17 service provider or department placement of a minor person in  
18 the petitioner's home in anticipation of an ensuing adoption.

19 Sec. 6. Section 600.8, subsections 3, 4, 8, and 10, Code  
20 2017, are amended to read as follows:

21 3. The department, an agency, or an a certified adoption  
22 investigator shall conduct all investigations and reports  
23 required under [subsection 2 of this section](#).

24 4. A postplacement investigation and the report of the  
25 investigation shall be completed and filed with the juvenile  
26 court or court prior to the holding of the adoption hearing  
27 prescribed in [section 600.12](#). Upon the filing of an adoption  
28 petition pursuant to [section 600.5](#), the juvenile court or  
29 court shall immediately appoint the department, an agency, or  
30 ~~an a certified adoption~~ investigator to conduct and complete  
31 the postplacement report. Any person who has gained relevant  
32 background information concerning a minor person subject to an  
33 adoption petition shall, upon request, fully cooperate with the  
34 conducting of the postplacement investigation by disclosing any  
35 relevant information requested, whether contained in sealed

1 records or not.

2 8. Any person designated to make an investigation and report  
3 under [this section](#) may request an agency, certified adoption  
4 investigator, or state agency, within or outside this state,  
5 to conduct a portion of the investigation or the report, as  
6 may be appropriate, and to file a supplemental report of such  
7 investigation or report with the juvenile court or court.  
8 In the case of the adoption of a minor person by a person  
9 domiciled or residing in any other jurisdiction of the United  
10 States, any investigation or report required under [this section](#)  
11 which has been conducted pursuant to the standards of that  
12 other jurisdiction shall be recognized in this state.

13 10. The department, ~~or~~ an agency, or a certified adoption  
14 investigator may conduct any investigations required for  
15 an interstate or interagency placement. Any interstate  
16 investigations or placements shall follow the procedures and  
17 regulations under the interstate compact on the placement of  
18 children. Such investigations and placements shall be in  
19 compliance with the laws of the states involved.

20 Sec. 7. Section 600.9, Code 2017, is amended to read as  
21 follows:

22 **600.9 Report of expenditures — penalty.**

23 1. *a.* A biological parent shall not receive any thing of  
24 value as a result of the biological parent's child or former  
25 child being placed with and adopted by another person, unless  
26 that thing of value is an allowable expense under [subsection 2](#).

27 *b.* Any person assisting in any way with the placement or  
28 adoption of a minor person shall not charge a fee which is  
29 more than usual, necessary, and commensurate with the services  
30 rendered.

31 *c.* If the biological parent receives any prohibited thing  
32 of value, if a person gives a prohibited thing of value, or if  
33 a person charges a prohibited fee under [this subsection](#), the  
34 person is guilty of a ~~simple~~ serious misdemeanor.

35 2. *a.* An adoption petitioner of a minor person shall

1 file with the juvenile court or court, prior to the adoption  
2 hearing, a full accounting of all disbursements of any  
3 thing of value paid or agreed to be paid by or on behalf of  
4 the petitioner in connection with the petitioned adoption.  
5 This accounting shall be made by a report prescribed by the  
6 juvenile court or court and shall be signed and verified by the  
7 petitioner. The report shall be accompanied by documentation  
8 of all disbursements made prior to the date of filing of  
9 the report. Only expenses incurred in connection with the  
10 following and any other expenses approved by the juvenile court  
11 or court are allowable:

12 (1) The birth of the minor person to be adopted.

13 (2) Placement of the minor person ~~with~~ by the adoption  
14 ~~petitioner and legal~~ service provider.

15 (3) Legal expenses related to the termination of parental  
16 rights and adoption processes.

17 ~~(3)~~ (4) Pregnancy-related medical care received by the  
18 biological parents or the minor person during the pregnancy  
19 or delivery of the minor person and for medically necessary  
20 postpartum care for the biological parent and the minor person.

21 ~~(4)~~ (5) Living Ordinary and necessary living expenses of  
22 ~~the mother, permitted in an amount not to exceed~~ including but  
23 not limited to the ~~cost of room and board or rent and costs~~  
24 of housing, food, utilities, and transportation, for medical  
25 purposes only, ~~on a common carrier of persons or an ambulance~~  
26 related to the pregnancy and birth of the child, in an amount  
27 not to exceed two thousand dollars and for no longer than  
28 thirty days after the birth of the minor person.

29 ~~(5)~~ (6) Costs of the counseling provided to the biological  
30 parents prior to the birth of the child, prior to the release  
31 of custody, and any counseling provided to the biological  
32 parents for not more than sixty days after the birth of the  
33 child.

34 ~~(6)~~ (7) Living expenses or care of the minor person ~~if the~~  
35 ~~minor person is placed in foster care~~ during the pendency of

1 the termination of parental rights proceedings.

2 b. All payments for allowable expenses shall be made through  
3 the adoption service provider. An adoption service provider  
4 shall deposit all funds received from prospective adoptive  
5 parents as payments for allowable expenses for a designated  
6 biological parent into an escrow account established with a  
7 financial institution located in this state whose accounts  
8 are insured by the federal deposit insurance corporation, the  
9 national credit union administration, or the federal savings  
10 and loan insurance corporation. Such escrow funds shall not  
11 be commingled with other revenues or expense accounts of the  
12 adoption service provider and separate accounting shall be  
13 maintained for each prospective adoptive parent whose funds  
14 are deposited in the escrow account. Any escrow funds not  
15 disbursed by the adoption service provider for the benefit  
16 of the designated biological parent shall be returned to the  
17 prospective adoptive parents with a full accounting of all  
18 deposits and disbursements. If the adoption service provider  
19 is a licensed attorney, use of the attorney's state-sanctioned  
20 trust account shall satisfy the requirements relative to the  
21 escrow account under this paragraph.

22 ~~b. c.~~ All Any payments for allowable expenses shall be made  
23 to the provider, if applicable, and not directly be made to the  
24 a biological parents parent, but instead shall be made directly  
25 to the provider of the service, product, or other activity to  
26 which the allowable expense is attributable, if applicable.

27 d. The provisions of **this subsection** do not apply in a  
28 stepparent adoption.

29 3. The juvenile court or court shall review the report prior  
30 to the adoption hearing and shall include findings regarding  
31 the allowance or disallowance of any disbursements or projected  
32 disbursements in the adoption decree.

33 **Sec. 8. NEW SECTION. 600.9A Prohibited practices —**  
34 **penalties.**

35 1. All of the following are prohibited practices regarding a

1 proceeding under this chapter:

2     *a.* The provision of termination of parental rights, child  
3 placement, or adoption services to any biological or adoptive  
4 parent by any person other than an adoption service provider  
5 or the department.

6     *b.* The charging of a fee by an adoption service provider  
7 that is more than the usual and necessary fee commensurate with  
8 the services rendered.

9     *c.* The facilitation, encouragement, or advisement of  
10 adoptive parents by an adoption service provider to provide any  
11 thing of value beyond those expenditures allowed pursuant to  
12 section 600.9.

13     *d.* The knowing encouragement or solicitation of payment of  
14 allowable expenses or provision of anything of value beyond  
15 those expenditures allowed pursuant to section 600.9, by a  
16 person falsely representing that a child may be available for  
17 adoption with the intent to defraud the other person.

18     2. A person who commits a prohibited practice under this  
19 section is guilty of a serious misdemeanor for the first  
20 violation and a class "C" felony for any second or subsequent  
21 violation.

22     Sec. 9. Section 600.13, subsection 5, Code 2017, is amended  
23 to read as follows:

24     5. An interlocutory or a final adoption decree shall be  
25 entered with the clerk of court. Such decree shall set forth  
26 any facts of the adoption petition which have been proven to  
27 the satisfaction of the juvenile court or court and any other  
28 facts considered to be relevant by the juvenile court or court  
29 and shall grant the adoption petition. If so designated in  
30 the adoption decree, the name of the adopted person shall be  
31 changed by issuance of that decree. The clerk of the court  
32 shall, within thirty days of issuance, deliver one certified  
33 copy of any adoption decree to the petitioner, one copy of any  
34 adoption decree to the department and any ~~agency or person~~  
35 ~~making an independent placement~~ adoption service provider who

1 placed a minor person for adoption, and one certification  
2 of adoption as prescribed in [section 144.19](#) to the state  
3 registrar of vital statistics at no charge. Upon receipt of  
4 the certification, the state registrar shall prepare a new  
5 birth certificate pursuant to [section 144.23](#) and deliver to  
6 the parents named in the decree and any adult person adopted  
7 by the decree a copy of the new birth certificate. The parents  
8 shall pay the fee prescribed in [section 144.46](#). If the person  
9 adopted was born outside this state but in the United States,  
10 the state registrar shall forward the certification of adoption  
11 to the appropriate agency in the state of birth. A copy of any  
12 interlocutory adoption decree vacation shall be delivered and  
13 another birth certificate shall be prepared in the same manner  
14 as a certification of adoption is delivered and the birth  
15 certificate was originally prepared.

16 Sec. 10. Section 600.16, subsection 1, unnumbered paragraph  
17 1, Code 2017, is amended to read as follows:

18 Any information compiled under [section 600.8, subsection 1,](#)  
19 paragraph "c", relating to medical and developmental histories  
20 shall be made available at any time by the clerk of court, the  
21 department, or any ~~agency which~~ adoption service provider that  
22 made the placement to:

23 Sec. 11. Section 600.16A, subsection 2, paragraph a, Code  
24 2017, is amended to read as follows:

25 a. An agency The department or an adoption service provider  
26 involved in placement shall contact the adopting parents or the  
27 adult adopted child regarding eligibility of the adopted child  
28 for benefits based on entitlement of benefits or inheritance  
29 from the terminated biological parents.

30 Sec. 12. Section 600.16A, subsection 3, paragraph a,  
31 unnumbered paragraph 1, Code 2017, is amended to read as  
32 follows:

33 In addition to other procedures by which adoption records  
34 may be opened under [this section](#), if both of the following  
35 conditions are met, the department, the clerk of court, or the

1 ~~agency which~~ adoption service provider that made the placement  
2 shall open the adoption record for inspection and shall reveal  
3 the identity of the biological parents to the adult adopted  
4 child or the identity of the adult adopted child to the  
5 biological parents:

6 Sec. 13. Section 600.16A, subsection 3, paragraph c, Code  
7 2017, is amended to read as follows:

8 c. Notwithstanding the provisions of this subsection, if  
9 the adult adopted person has a sibling who is a minor and who  
10 has also been adopted by the same parents, the department, the  
11 clerk of court, or the ~~agency which~~ adoption service provider  
12 that made the placement may deny the request of either the  
13 adult adopted person or the biological parent to open the  
14 adoption records and to reveal the identities of the parties  
15 pending determination by the juvenile court or court that there  
16 is good cause to open the records pursuant to subsection 2.

17 Sec. 14. Section 600.20, Code 2017, is amended to read as  
18 follows:

19 **600.20 Availability of assistance.**

20 Financial assistance shall be available only if the child  
21 to be adopted was under the guardianship of the state, county,  
22 or a ~~licensed child-placing~~ an agency immediately prior to  
23 adoption. The one-hundred-eighty-day period of residence in  
24 the proposed home required in section 600.10 shall not apply to  
25 this section.

26 Sec. 15. Section 600A.2, Code 2017, is amended by adding the  
27 following new subsections:

28 NEW SUBSECTION. 01. "*Adoption service provider*" means an  
29 agency or a licensed attorney.

30 NEW SUBSECTION. 3A. "*Certified adoption investigator*"  
31 means a person who is certified and approved by the department  
32 of human services, after inspection by the department of  
33 inspections and appeals, as being capable of conducting an  
34 investigation under section 600.8.

35 Sec. 16. Section 600A.2, subsection 2, Code 2017, is amended

1 to read as follows:

2 2. "Agency" means a child-placing agency as defined in  
3 section 238.1 ~~or the department.~~

4 Sec. 17. Section 600A.2, subsection 10, Code 2017, is  
5 amended by striking the subsection.

6 Sec. 18. Section 600A.4, subsection 1, Code 2017, is amended  
7 to read as follows:

8 1. A parent shall not permanently alter the parent-child  
9 relationship, except as ordered by a juvenile court or  
10 court. However, custody of a minor child may be assumed by a  
11 stepparent or a relative of that child within the fourth degree  
12 of consanguinity or transferred by an acceptance of a release  
13 of custody. A person who assumes custody or an agency adoption  
14 service provider which accepts a release of custody under this  
15 section becomes, upon assumption or acceptance, the custodian  
16 of the minor child.

17 Sec. 19. Section 600A.4, subsection 2, paragraphs a and d,  
18 Code 2017, are amended to read as follows:

19 a. Shall be accepted only by an ~~agency or a person making an~~  
20 ~~independent placement~~ adoption service provider.

21 d. (1) Shall contain written acknowledgment of the  
22 biological parents that after the birth of the child three  
23 hours of counseling regarding the decision to release  
24 custody and the alternatives available have been offered  
25 to the biological parents by the agency, ~~the person making~~  
26 ~~an independent placement, an investigator as defined in~~  
27 ~~section 600.2, or other qualified counselor regarding the~~  
28 ~~decision to release custody and the alternatives available~~  
29 ~~to the biological parents~~ department or an adoption service  
30 provider. The release of custody shall also contain written  
31 acknowledgment of the acceptance or refusal of the counseling  
32 by the biological parent.

33 (2) If accepted, the counseling shall be provided after  
34 the birth of the child and prior to the signing of a release  
35 of custody or the filing of a petition for termination of

1 parental rights as applicable. Counseling shall be provided  
2 only by a person who is qualified under rules adopted by the  
3 department of human services which shall include a requirement  
4 that the person complete a minimum number of hours of training  
5 in the area of adoption-related counseling approved by the  
6 department. If counseling is accepted, the counselor shall  
7 provide an affidavit, which shall be attached to the release of  
8 custody, when practicable, certifying that the counselor has  
9 provided the biological parent with the requested counseling  
10 and documentation that the person is qualified to provide the  
11 requested counseling as prescribed by this paragraph "d". The  
12 requirements of this paragraph "d" do not apply to a release  
13 of custody which is executed for the purposes of a stepparent  
14 adoption.

15 Sec. 20. Section 600A.4, subsection 2, paragraph f,  
16 subparagraphs (1) and (4), Code 2017, are amended to read as  
17 follows:

18 (1) A biological parent may also provide ongoing  
19 information to the adoptive parents, as additional medical  
20 or social history information becomes known, by providing  
21 information to the clerk of court, the department of ~~human~~  
22 ~~services~~, or the ~~agency which~~ adoption service provider that  
23 made the placement, and may provide the current address of  
24 the biological parent. The clerk of court, the department of ~~of~~  
25 ~~human services~~, or the ~~agency which~~ adoption service provider  
26 that made the placement shall transmit the information to the  
27 adoptive parents if the address of the adoptive parents is  
28 known.

29 (4) The department shall prescribe forms designed to obtain  
30 the family medical and social history and shall provide the  
31 forms at no charge to any ~~agency~~ adoption service provider or  
32 person who executes a release of custody of the minor child or  
33 who files a petition for termination of parental rights. The  
34 existence of this report does not limit a person's ability to  
35 petition the court for release of records in accordance with

1 other provisions of law.

2 Sec. 21. Section 600A.4, subsection 3, Code 2017, is amended  
3 to read as follows:

4 3. Notwithstanding the provisions of subsection 2, the  
5 department or an agency or a person making an independent  
6 placement adoption service provider may assume custody of a  
7 minor child upon the signature of the one living parent who has  
8 possession of the minor child if the ~~agency or a person making~~  
9 ~~an independent placement~~ department or an adoption service  
10 provider immediately petitions the juvenile court designated  
11 in section 600A.5 to be appointed custodian and otherwise  
12 petitions, either in the same petition or within a reasonable  
13 time in a separate petition, for termination of parental rights  
14 under section 600A.5. Upon the custody petition, the juvenile  
15 court may appoint a guardian as well as a custodian.

16 Sec. 22. NEW SECTION. 600A.6C Report of expenditures —  
17 penalty.

18 1. *a.* A biological parent shall not receive any thing of  
19 value as a result of the biological parent terminating the  
20 parent's parental rights, unless that thing of value is an  
21 allowable expense under subsection 2.

22 *b.* Any person assisting in any way with the termination  
23 of parental rights shall not charge a fee which is more than  
24 usual, necessary, and commensurate with the services rendered.

25 *c.* If the biological parent receives any prohibited thing  
26 of value, if a person gives a prohibited thing of value, or if  
27 a person charges a prohibited fee under this subsection, the  
28 person is guilty of a serious misdemeanor.

29 2. *a.* The petitioner shall file with the juvenile court  
30 or court, prior to the termination hearing, a full accounting  
31 of all disbursements of any thing of value paid or agreed  
32 to be paid by or on behalf of the petitioner or intended  
33 adoptive parent in connection with the petitioned termination.  
34 This accounting shall be made by a report prescribed by the  
35 juvenile court or court and shall be signed and verified by the

1 petitioner. The report shall be accompanied by documentation  
2 of all disbursements made prior to the date of filing of  
3 the report. Only expenses incurred in connection with the  
4 following and any other expenses approved by the juvenile court  
5 or court are allowable:

6 (1) The birth of the minor person to be adopted.

7 (2) Placement of the minor person by the adoption service  
8 provider.

9 (3) Legal expenses related to the termination of parental  
10 rights and adoption processes.

11 (4) Pregnancy-related medical care received by the  
12 biological parents or the minor person during the pregnancy  
13 or delivery of the minor person and for medically necessary  
14 postpartum care for the biological parent and the minor person.

15 (5) Ordinary and necessary living expenses of the mother  
16 including but not limited to the costs of housing, food,  
17 utilities, and transportation for medical purposes related  
18 to the pregnancy and birth of the child, in an amount not to  
19 exceed two thousand dollars and for no longer than thirty days  
20 after the birth of the minor person.

21 (6) Costs of the counseling provided to the biological  
22 parents prior to the birth of the child, prior to the release  
23 of custody, and any counseling provided to the biological  
24 parents for not more than sixty days after the birth of the  
25 child.

26 (7) Living expenses or care of the minor person during the  
27 pendency of the termination of parental rights proceedings.

28 *b.* All payments for allowable expenses shall be made through  
29 the adoption service provider. An adoption service provider  
30 shall deposit all funds received from prospective adoptive  
31 parents as payments for allowable expenses for a designated  
32 biological parent into an escrow account established with a  
33 financial institution located in this state whose accounts  
34 are insured by the federal deposit insurance corporation, the  
35 national credit union administration, or the federal savings

1 and loan insurance corporation. Such escrow funds shall not  
2 be commingled with other revenues or expense accounts of the  
3 adoption service provider and separate accounting shall be  
4 maintained for each prospective adoptive parent whose funds  
5 are deposited in the escrow account. Any escrow funds not  
6 disbursed by the adoption service provider for the benefit  
7 of the designated biological parent shall be returned to the  
8 prospective adoptive parents with a full accounting of all  
9 deposits and disbursements. If the adoption service provider  
10 is a licensed attorney, use of the attorney's state-sanctioned  
11 trust account shall satisfy the requirements relative to the  
12 escrow account under this paragraph.

13 c. Any payments for allowable expenses shall not be made to  
14 a biological parent, but instead shall be made directly to the  
15 provider of the service, product, or other activity to which  
16 the allowable expense is attributable, if applicable.

17 d. The provisions of this subsection do not apply in a  
18 stepparent adoption.

19 3. The juvenile court or court shall review the report prior  
20 to the termination hearing and shall include findings regarding  
21 the allowance or disallowance of any disbursements or projected  
22 disbursements in the termination order.

23 Sec. 23. Section 600A.10, Code 2017, is amended to read as  
24 follows:

25 **600A.10 Termination procedures — prohibited practices —**  
26 **penalty for violation.**

27 1. Any biological parent who chooses to identify the  
28 other biological parent and who knowingly and intentionally  
29 identifies a person who is not the other biological parent in  
30 the written release of custody or in any other document related  
31 to the termination of parental rights proceedings is guilty of  
32 a ~~simple~~ serious misdemeanor.

33 2. Any person who signs or accepts a release of custody  
34 under [section 600A.4](#) prior to the expiration of the  
35 seventy-two-hour period required is guilty of a serious

1 misdemeanor.

2 3. a. All of the following are prohibited practices  
3 regarding a proceeding under this chapter:

4 (1) The provision of termination of parental rights, child  
5 placement, or adoption services to any biological or adoptive  
6 parent by any person other than an adoption service provider  
7 or the department.

8 (2) The charging of a fee by an adoption service provider  
9 that is more than the usual and necessary fee commensurate with  
10 the services rendered.

11 (3) The facilitation, encouragement, or advisement of  
12 adoptive parents by an adoption service provider to provide any  
13 thing of value beyond those expenditures allowed pursuant to  
14 section 600A.6C.

15 (4) The knowing encouragement or solicitation of payment  
16 of allowable expenses or provision of anything of value beyond  
17 those expenditures allowed pursuant to section 600A.6C, by a  
18 person falsely representing that a child may be available for  
19 adoption with the intent to defraud the other person.

20 b. A person who commits a prohibited practice under this  
21 subsection is guilty of a serious misdemeanor for the first  
22 violation and a class "C" felony for any second or subsequent  
23 violation.

24 Sec. 24. Section 714.8, Code 2017, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 21. Knowingly, by deception and with intent  
27 to defraud another person, represents that the child expected  
28 as the result of that person's pregnancy or the pregnancy of  
29 another person may be available for adoption.

30 Sec. 25. Section 714.11, subsection 1, paragraph b, Code  
31 2017, is amended to read as follows:

32 b. A fraudulent practice as set forth in section 714.8,  
33 subsections 2, 8, and 9, and 21.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1           the explanation's substance by the members of the general assembly.

2       This bill relates to adoption and termination of parental  
3 rights. The bill defines "adoption service provider" to  
4 include a licensed child-placing agency or a licensed attorney.  
5 The bill eliminates the definition of and the use of the term  
6 "independent placement" relative to termination of parental  
7 rights and adoption proceedings, thereby only allowing adoption  
8 service providers and the department of human services (DHS) to  
9 make placements of minor children for the purposes of adoption.  
10 The bill also defines "certified adoption investigator", for  
11 the purposes of termination of parental rights and adoption  
12 proceedings, replacing the term "investigator" which did not  
13 require certification or approval of such investigators by  
14 the department of human services. The bill makes conforming  
15 changes throughout the Code to reflect the new definitions,  
16 including relative to allowable tax deductions from net income.

17       The bill clarifies that the one certified copy of the  
18 adoption decree to the petitioner, and the one copy of any  
19 adoption decree to DHS, an adoption service provider, and the  
20 state registrar of vital statistics, currently required to be  
21 provided by the clerk of the court, are to be provided at no  
22 charge.

23       The bill requires reporting of expenditures and limitations  
24 on payment of only allowable expenditures relating to  
25 termination of parental rights similar to those requirements  
26 currently in place for adoption. As with adoptions, the bill  
27 prohibits a biological parent from receiving any thing of value  
28 as a result of the biological parent terminating the parent's  
29 parental rights, unless that thing of value is an allowable  
30 expense as provided in the bill. Any person assisting in any  
31 way with the termination of parental rights is prohibited  
32 from charging a fee which is more than usual, necessary, and  
33 commensurate with the services rendered. If the biological  
34 parent receives any prohibited thing of value, if a person  
35 gives a prohibited thing of value, or if a person charges a

1 prohibited fee, the person is guilty of a serious misdemeanor.

2 As with an adoption petitioner, the bill also requires a  
3 termination of parental rights petitioner to file with the  
4 juvenile court or court, prior to the termination hearing, a  
5 full accounting of all disbursements of any thing of value  
6 paid or agreed to be paid by or on behalf of the petitioner  
7 or intended adoptive parent in connection with the petitioned  
8 termination. The accounting is to be made by a report  
9 prescribed by the juvenile court or court and signed and  
10 verified by the petitioner. The report is required to be  
11 accompanied by documentation of all disbursements made prior to  
12 the date of filing of the report. The bill specifies allowable  
13 expenses similar to those allowed relative to an adoption  
14 proceeding.

15 Additionally, the bill provides that all payments for  
16 allowable expenses shall be made through the adoption  
17 service provider and that the adoption service provider shall  
18 deposit all funds received into an escrow account. The bill  
19 specifies that such escrow funds shall not be commingled with  
20 other revenues or expense accounts of the adoption service  
21 provider and separate accounting shall be maintained for each  
22 prospective adoptive parent whose funds are deposited in the  
23 escrow account. Any escrow funds not disbursed by the adoption  
24 service provider for the benefit of the designated biological  
25 parent shall be returned to the prospective adoptive parents  
26 with a full accounting of all deposits and disbursements.  
27 The bill provides that if the adoption service provider is a  
28 licensed attorney, use of the attorney's state-sanctioned trust  
29 account shall satisfy the requirement relative to the escrow  
30 account.

31 As with similar provisions relating to payment of allowable  
32 expenses under an adoption proceeding, any payments for  
33 allowable expenses relative to a termination of parental rights  
34 proceeding shall not be made to a biological parent, but  
35 instead shall be made directly to the provider of the service,

1 product, or other activity to which the allowable expense  
2 is attributable, if applicable. The provisions relating  
3 to allowable expenditures and reporting do not apply in a  
4 stepparent adoption.

5 The bill directs that, as in an adoption proceeding, the  
6 juvenile court or court shall review the expenditure report  
7 prior to the termination hearing and shall include findings  
8 regarding the allowance or disallowance of any disbursements or  
9 projected disbursements in the termination order.

10 The bill also includes provisions relating to prohibited  
11 practices relating to termination procedures. The bill amends  
12 and increases the penalty from a simple misdemeanor to a  
13 serious misdemeanor for the existing prohibition against a  
14 person who signs or accepts a release of custody prior to the  
15 expiration of the required 72-hour period. The bill includes  
16 prohibited practices, the violation of which is a serious  
17 misdemeanor for a first offense and a class "C" felony for any  
18 second or subsequent violation. The bill also includes similar  
19 prohibited practices relative to an adoption proceeding.

20 A simple misdemeanor is punishable by confinement for  
21 no more than 30 days or a fine of at least \$65 but not more  
22 than \$625 or by both. A serious misdemeanor is punishable  
23 by confinement for no more than one year and a fine of at  
24 least \$315 but not more than \$1,875. A class "C" felony is  
25 punishable by confinement for no more than 10 years and a fine  
26 of at least \$1,000 but not more than \$10,000.

27 The bill also includes in the definition of a fraudulent  
28 practice under Code section 714.8, a person, knowingly, by  
29 deception and with intent to defraud another person, represents  
30 that the child expected as the result of that person's  
31 pregnancy or the pregnancy of another person may be available  
32 for adoption. The bill also makes this fraudulent practice a  
33 fraudulent practice in the third degree, which is an aggravated  
34 misdemeanor. An aggravated misdemeanor is punishable by  
35 confinement for no more than two years and a fine of at least

1 \$625 but not more than \$6,250.