



Adoption Reform Committee

Adopted in House Comm. on Mar 13, 2008

09500HB4571ham001

LRB095 14727 RLC 46927 a

1 AMENDMENT TO HOUSE BILL 4571

2 AMENDMENT NO. _____. Amend House Bill 4571 by replacing
3 the title with the following:

4 "AN ACT concerning adoption."; and

5 by replacing everything after the enacting clause with the
6 following:

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

9 (720 ILCS 525/3) (from Ch. 40, par. 1703)

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

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

13 "Placing out" means to arrange for the free care or
14 placement of a child in a family other than that of the child's
15 parent, stepparent, grandparent, brother, sister, uncle or

1 aunt or legal guardian, for the purpose of adoption or for the
2 purpose of providing care.

3 "Prospective adoptive parent" means a person or persons who
4 have filed or intend to file a petition to adopt a child under
5 the Adoption Act.

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

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

9 (720 ILCS 525/4) (from Ch. 40, par. 1704)

10 Sec. 4. The provisions of this Act shall not be construed
11 to prevent the payment of salaries or other compensation by a
12 licensed child welfare agency providing adoption services, as
13 that term is defined by the Child Care Act of 1969, as now or
14 hereafter amended, to the officers, employees, agents,
15 contractors, or any other persons acting on behalf of the child
16 welfare agency, provided that such salaries and compensation
17 are consistent with subsection (a) of Section 14.5 of the Child
18 Care Act of 1969.

19 The provisions of this Act shall not be construed to
20 prevent the payment by a prospective adoptive parent ~~person~~
21 ~~with whom a child has been placed for adoption~~ of reasonable
22 and actual medical fees or hospital charges for services
23 rendered in connection with the birth of such child, if such
24 payment is made to the physician or hospital who or which
25 rendered the services or to the biological mother of the child

1 or to prevent the receipt of such payment by such physician,
2 hospital, or mother.

3 The provisions of this Act shall not be construed to
4 prevent a prospective adoptive parent from giving a gift or
5 gifts or other thing or things of value to a biological parent
6 provided that the total value of such gift or gifts or thing or
7 things of value does not exceed \$200.

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

9 (720 ILCS 525/4.1) (from Ch. 40, par. 1704.1)

10 Sec. 4.1. Payment of certain expenses.

11 (a) A prospective adoptive parent ~~person or persons who~~
12 ~~have filed or intend to file a petition to adopt a child under~~
13 ~~the Adoption Act~~ shall be permitted to pay the reasonable
14 living expenses of the biological parents of the child sought
15 to be adopted, in addition to those expenses set forth in
16 Section 4, only in accordance with the provisions of this
17 Section.

18 "Reasonable living expenses" means those expenses related
19 to activities of daily living and meeting basic needs,
20 including, but not limited to, lodging, food, and clothing for
21 the biological parents during the biological mother's
22 pregnancy and for no more than 120 days prior to the biological
23 mother's expected date of delivery and for no more than 60 days
24 after the birth of the child. The term does not include
25 expenses for lost wages, gifts, educational expenses, or other

1 similar expenses of the biological parents.

2 (b) (1) The prospective adoptive parents ~~petitioners~~ may
3 seek leave of the court to pay the reasonable living expenses
4 of the biological parents. They shall be permitted to pay the
5 reasonable living expenses of the biological parents only upon
6 prior order of the circuit court where the petition for
7 adoption will be filed, or if the petition for adoption has
8 been filed in the circuit court where the petition is pending.

9 (2) Notwithstanding clause (b)(1) of this Section, a
10 prospective adoptive parent may advance a maximum of \$1,000 for
11 reasonable birth parent living expenses without prior order of
12 court. The prospective adoptive parents shall present a final
13 accounting of all expenses to the court prior to the entry of a
14 final judgment order for adoption.

15 (3) If the court finds an accounting by the prospective
16 adoptive parents to be incomplete or deceptive or to contain
17 amounts which are unauthorized or unreasonable, the court may
18 order a new accounting or the repayment of amounts found to be
19 excessive or unauthorized or make any other orders it deems
20 appropriate.

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

26 (d) Payment of their reasonable living expenses, as

1 provided in this Section, shall not obligate the biological
2 parents to place the child for adoption. In the event the
3 biological parents choose not to place the child for adoption,
4 the prospective adoptive parents ~~petitioners~~ shall have no
5 right to seek reimbursement from the biological parents, or
6 from any relative or associate of the biological parents, of
7 moneys paid to, or on behalf of, the biological parents
8 pursuant to a court order under this Section.

9 (d-1) Notwithstanding subsection (d) of this Section, a
10 prospective adoptive parent may seek reimbursement of
11 reasonable living expenses from a person who receives such
12 payments only if the person who accepts payment of reasonable
13 living expenses before the child's birth, as described in
14 subsection (d) of this Section, knows that the person on whose
15 behalf he or she is accepting payment is not pregnant at the
16 time of the receipt of such payments or the person receives
17 reimbursement for reasonable living expenses simultaneously
18 from more than one prospective adoptive parent without the
19 knowledge of the prospective adoptive parent.

20 (d-5) No person or entity shall offer, provide, or co-sign
21 a loan or any other credit accommodation, directly or
22 indirectly, with a biological parent or a relative or associate
23 of a biological parent based on the contingency of a surrender
24 or placement of a child for adoption.

25 (e) Within 14 days after the completion of all payments for
26 reasonable living expenses of the biological parents under this

1 Section, the prospective adoptive parents ~~petitioners~~ shall
2 present a final accounting of all those expenses to the court.
3 ~~The accounting shall include vouchers for all moneys expended,~~
4 ~~copies of all checks written, and receipts for all cash~~
5 ~~payments.~~ The accounting shall also include the verified
6 statements of the prospective adoptive parents ~~petitioners~~,
7 each attorney of record, and the biological parents or parents
8 to whom or on whose behalf the payments were made attesting to
9 the accuracy of the accounting.

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

25 (g) The prospective adoptive parents ~~petitioners~~ shall be
26 permitted to pay the reasonable attorney's fees of a ~~the~~

1 biological parent's ~~parents'~~ attorney in connection with
2 proceedings under this Act or in connection with proceedings
3 for the adoption of the child if the amount of fees of the
4 attorney is \$1,000 or less. If the amount of attorney's fees of
5 each biological parent exceeds \$1,000, the ~~. The~~ attorney's
6 fees shall be paid only after a petition seeking leave to pay
7 those fees is filed with the court in which the adoption
8 proceeding is filed or to be filed. The court shall review the
9 petition for leave to pay attorney's fees, and if the court
10 determines that the fees requested are reasonable, the court
11 shall permit the petitioners to pay them. If the court
12 determines that the fees requested are not reasonable, the
13 court shall determine and set the reasonable attorney's fees of
14 the biological parents' attorney which may be paid by the
15 petitioners. The prospective adoptive parents shall present a
16 final accounting of all those fees to the court prior to the
17 entry of a final judgment order for adoption.

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

21 (i) The provisions of this Section apply to a person who is
22 a prospective adoptive parent ~~has filed or intends to file a~~
23 ~~petition to adopt a child under the Adoption Act.~~ This Section
24 does not apply to a licensed child welfare agency, as that term
25 is defined in the Child Care Act of 1969, whose payments are
26 governed by the Child Care Act of 1969 and the Department rules

1 adopted thereunder.

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

3 Section 10. The Adoption Act is amended by changing Section
4 18.3a as follows:

5 (750 ILCS 50/18.3a) (from Ch. 40, par. 1522.3a)

6 Sec. 18.3a. Confidential intermediary.

7 (a) General purposes. Notwithstanding any other provision
8 of this Act, any adopted or surrendered person 21 years of age
9 or over, any adoptive parent or legal guardian of an adopted or
10 surrendered person under the age of 21, or any birth parent of
11 an adopted or surrendered person who is 21 years of age or over
12 may petition the court in any county in the State of Illinois
13 for appointment of a confidential intermediary as provided in
14 this Section for the purpose of exchanging medical information
15 with one or more mutually consenting biological relatives,
16 obtaining identifying information about one or more mutually
17 consenting biological relatives, or arranging contact with one
18 or more mutually consenting biological relatives.
19 Additionally, in cases where an adopted or surrendered person
20 is deceased, an adult child of the adopted or surrendered
21 person or his or her adoptive parents or surviving spouse may
22 file a petition under this Section and in cases where the birth
23 parent is deceased, an adult birth sibling of the adopted or
24 surrendered person or of the deceased birth parent may file a

1 petition under this Section for the purpose of exchanging
2 medical information with one or more mutually consenting
3 biological relatives of the adopted or surrendered person,
4 obtaining identifying information about one or more mutually
5 consenting biological relatives of the adopted or surrendered
6 person, or arranging contact with one or more mutually
7 consenting biological relatives of the adopted or surrendered
8 person. Beginning January 1, 2006, any adopted or surrendered
9 person 21 years of age or over; any adoptive parent or legal
10 guardian of an adopted or surrendered person under the age of
11 21; any birth parent, birth sibling, birth aunt, or birth uncle
12 of an adopted or surrendered person over the age of 21; any
13 surviving child, adoptive parent, or surviving spouse of a
14 deceased adopted or surrendered person who wishes to petition
15 the court for the appointment of a confidential intermediary
16 shall be required to accompany their petition with proof of
17 registration with the Illinois Adoption Registry and Medical
18 Information Exchange.

19 (b) Petition. Upon petition by an adopted or surrendered
20 person 21 years of age or over, an adoptive parent or legal
21 guardian of an adopted or surrendered person under the age of
22 21, or a birth parent of an adopted or surrendered person who
23 is 21 years of age or over, the court shall appoint a
24 confidential intermediary. Upon petition by an adult child,
25 adoptive parent or surviving spouse of an adopted or
26 surrendered person who is deceased, by an adult birth sibling

1 of an adopted or surrendered person whose common birth parent
2 is deceased and whose adopted or surrendered birth sibling is
3 21 years of age or over, or by an adult sibling of a birth
4 parent who is deceased, and whose surrendered child is 21 years
5 of age or over, the court may appoint a confidential
6 intermediary if the court finds that the disclosure is of
7 greater benefit than nondisclosure. The petition shall state
8 which biological relative or relatives are being sought and
9 shall indicate if the petitioner wants to do any one or more of
10 the following: exchange medical information with the
11 biological relative or relatives, obtain identifying
12 information from the biological relative or relatives, or to
13 arrange contact with the biological relative.

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

18 (d) Fees and expenses. The court shall condition the
19 appointment of the confidential intermediary on the
20 petitioner's payment of the intermediary's fees and expenses in
21 advance of the commencement of the work of the confidential
22 intermediary.

23 (e) Eligibility of intermediary. The court may appoint as
24 confidential intermediary any person certified by the
25 Department of Children and Family Services as qualified to
26 serve as a confidential intermediary. Certification shall be

1 dependent upon the confidential intermediary completing a
2 course of training including, but not limited to, applicable
3 federal and State privacy laws.

4 (f) Confidential Intermediary Council. There shall be
5 established under the Department of Children and Family
6 Services a Confidential Intermediary Advisory Council. One
7 member shall be an attorney representing the Attorney General's
8 Office appointed by the Attorney General. One member shall be a
9 currently certified confidential intermediary appointed by the
10 Director of the Department of Children and Family Services. The
11 Director shall also appoint 5 additional members. When making
12 those appointments, the Director shall consider advocates for
13 adopted persons, adoptive parents, birth parents, lawyers who
14 represent clients in private adoptions, lawyers specializing
15 in privacy law, and representatives of agencies involved in
16 adoptions. The Director shall appoint one of the 7 members as
17 the chairperson. An attorney from the Department of Children
18 and Family Services and the person directly responsible for
19 administering the confidential intermediary program shall
20 serve as ex-officio, non-voting advisors to the Council.
21 Council members shall serve at the discretion of the Director
22 and shall receive no compensation other than reasonable
23 expenses approved by the Director. The Council shall meet no
24 less than twice yearly, and shall make recommendations to the
25 Director regarding the development of rules, procedures, and
26 forms that will ensure efficient and effective operation of the

1 confidential intermediary process, including:

2 (1) Standards for certification for confidential
3 intermediaries.

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

6 (3) Training for confidential intermediaries,
7 including training with respect to federal and State
8 privacy laws.

9 (4) The relationship between confidential
10 intermediaries and the court system, including the
11 development of sample orders defining the scope of the
12 intermediaries' access to information.

13 (5) Any recent violations of policy or procedures by
14 confidential intermediaries and remedial steps, including
15 decertification, to prevent future violations.

16 (g) Access. Subject to the limitations of subsection (i)
17 of this Section, the confidential intermediary shall have
18 access to vital records maintained by the Department of Public
19 Health and its local designees for the maintenance of vital
20 records or a comparable public entity that maintains vital
21 records in another state in accordance with that state's laws
22 and all records of the court or any adoption agency, public or
23 private, as limited in this Section, which relate to the
24 adoption or the identity and location of an adopted or
25 surrendered person, of an adult child or surviving spouse of a
26 deceased adopted or surrendered person, or of a birth parent,

1 birth sibling, or the sibling of a deceased birth parent. The
2 confidential intermediary shall not have access to any personal
3 health information protected by the Standards for Privacy of
4 Individually Identifiable Health Information adopted by the
5 U.S. Department of Health and Human Services under the Health
6 Insurance Portability and Accountability Act of 1996 unless the
7 confidential intermediary has obtained written consent from
8 the person whose information is being sought or, if that person
9 is a minor child, that person's parent or guardian.
10 Confidential intermediaries shall be authorized to inspect
11 confidential relinquishment and adoption records. The
12 confidential intermediary shall not be authorized to access
13 medical records, financial records, credit records, banking
14 records, home studies, attorney file records, or other personal
15 records. In cases where a birth parent is being sought, an
16 adoption agency shall inform the confidential intermediary of
17 any statement filed pursuant to Section 18.3, hereinafter
18 referred to as "the 18.3 statement", indicating a desire of the
19 surrendering birth parent to have identifying information
20 shared or to not have identifying information shared. If there
21 was a clear statement of intent by the sought-after birth
22 parent not to have identifying information shared, the
23 confidential intermediary shall discontinue the search and
24 inform the petitioning party of the sought-after relative's
25 intent. Information provided to the confidential intermediary
26 by an adoption agency shall be restricted to the full name,

1 date of birth, place of birth, last known address, last known
2 telephone number of the sought-after relative or, if
3 applicable, of the children or siblings of the sought-after
4 relative, and the 18.3 statement.

5 (h) Adoption agency disclosure of medical information. If
6 the petitioner is an adult adopted or surrendered person or the
7 adoptive parent of a minor and if the petitioner has signed a
8 written authorization to disclose personal medical
9 information, an adoption agency disclosing information to a
10 confidential intermediary shall disclose available medical
11 information about the adopted or surrendered person from birth
12 through adoption.

13 (i) Duties of confidential intermediary in conducting a
14 search. In conducting a search under this Section, the
15 confidential intermediary shall first confirm that there is no
16 Denial of Information Exchange on file with the Illinois
17 Adoption Registry. If the petitioner is an adult child of an
18 adopted or surrendered person who is deceased, the confidential
19 intermediary shall additionally confirm that the adopted or
20 surrendered person did not file a Denial of Information
21 Exchange with the Illinois Adoption Registry during his or her
22 life. If the petitioner is an adult birth sibling of an adopted
23 or surrendered person or an adult sibling of a birth parent who
24 is deceased, the confidential intermediary shall additionally
25 confirm that the birth parent did not file a Denial of
26 Information Exchange with the Registry during his or her life.

1 If the confidential intermediary learns that a sought-after
2 birth parent signed a statement indicating his or her intent
3 not to have identifying information shared, and did not later
4 file an Information Exchange Authorization with the Adoption
5 Registry, the confidential intermediary shall discontinue the
6 search and inform the petitioning party of the birth parent's
7 intent.

8 In conducting a search under this Section, the confidential
9 intermediary shall attempt to locate the relative or relatives
10 from whom the petitioner has requested information. If the
11 sought-after relative is deceased or cannot be located after a
12 diligent search, the confidential intermediary may contact
13 other adult relatives of the sought-after relative.

14 The confidential intermediary shall contact a sought-after
15 relative on behalf of the petitioner in a manner that respects
16 the sought-after relative's privacy and shall inform the
17 sought-after relative of the petitioner's request for medical
18 information, identifying information or contact as stated in
19 the petition. Based upon the terms of the petitioner's request,
20 the confidential intermediary shall contact a sought-after
21 relative on behalf of the petitioner and inform the
22 sought-after relative of the following options:

- 23 (1) The sought-after relative may totally reject one or
24 all of the requests for medical information, identifying
25 information or contact. The sought-after relative shall be
26 informed that they can provide a medical questionnaire to

1 be forwarded to the petitioner without releasing any
2 identifying information. The confidential intermediary
3 shall inform the petitioner of the sought-after relative's
4 decision to reject the sharing of information or contact.

5 (2) The sought-after relative may consent to
6 completing a medical questionnaire only. In this case, the
7 confidential intermediary shall provide the questionnaire
8 and ask the sought-after relative to complete it. The
9 confidential intermediary shall forward the completed
10 questionnaire to the petitioner and inform the petitioner
11 of the sought-after relative's desire to not provide any
12 additional information.

13 (3) The sought-after relative may communicate with the
14 petitioner without having his or her identity disclosed. In
15 this case, the confidential intermediary shall arrange the
16 desired communication in a manner that protects the
17 identity of the sought-after relative. The confidential
18 intermediary shall inform the petitioner of the
19 sought-after relative's decision to communicate but not
20 disclose his or her identity.

21 (4) The sought after relative may consent to initiate
22 contact with the petitioner. If both the petitioner and the
23 sought-after relative or relatives are eligible to
24 register with the Illinois Adoption Registry, the
25 confidential intermediary shall provide the necessary
26 application forms and request that the sought-after

1 relative register with the Illinois Adoption Registry. If
 2 either the petitioner or the sought-after relative or
 3 relatives are ineligible to register with the Illinois
 4 Adoption Registry, the confidential intermediary shall
 5 obtain written consents from both parties that they wish to
 6 disclose their identities to each other and to have contact
 7 with each other.

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

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

15 (2) I recognize that violation of this oath subjects me
 16 to civil liability and to a potential finding of contempt
 17 of court.

18 SUBSCRIBED AND SWORN to before me, a Notary Public, on (insert
 19 date)
 20"

21 (k) Sanctions.

22 (1) Any confidential intermediary who improperly
 23 discloses confidential information identifying a
 24 sought-after relative shall be liable to the sought-after
 25 relative for damages and may also be found in contempt of
 26 court.

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

7 (3) The Department shall fine any confidential
8 intermediary who improperly discloses confidential
9 information in violation of item (1) or (2) of this
10 subsection (k) an amount up to \$2,000 per improper
11 disclosure. This fine does not affect civil liability under
12 item (2) of this subsection (k). The Department shall
13 deposit all fines and penalties collected under this
14 Section into the Illinois Adoption Registry and Medical
15 Information Fund.

16 (1) Death of person being sought. Notwithstanding any other
17 provision of this Act, if the confidential intermediary
18 discovers that the person being sought has died, he or she
19 shall report this fact to the court, along with a copy of the
20 death certificate.

21 (m) Any confidential information obtained by the
22 confidential intermediary during the course of his or her
23 search shall be kept strictly confidential and shall be used
24 for the purpose of arranging contact between the petitioner and
25 the sought-after birth relative. At the time the case is
26 closed, all identifying information shall be returned to the

1 court for inclusion in the impounded adoption file.

2 (n) If the petitioner is an adopted or surrendered person
3 21 years of age or over or the adoptive parent or legal
4 guardian of an adopted or surrendered person under the age of
5 21, any non-identifying information, as defined in Section
6 18.4, that is ascertained during the course of the search may
7 be given in writing to the petitioner at any time during the
8 search before the case is closed.

9 (o) Except as provided in subsection (k) of this Section,
10 no liability shall accrue to the State, any State agency, any
11 judge, any officer or employee of the court, any certified
12 confidential intermediary, or any agency designated to oversee
13 confidential intermediary services for acts, omissions, or
14 efforts made in good faith within the scope of this Section.

15 (p) An adoption agency that has received a request from a
16 confidential intermediary for the full name, date of birth,
17 last known address, or last known telephone number of a
18 sought-after relative pursuant to subsection (g) of Section
19 18.3, or for medical information regarding a sought-after
20 relative pursuant to subsection (h) of Section 18.3, must
21 satisfactorily comply with this court order within a period of
22 45 days. The court shall order the adoption agency to reimburse
23 the petitioner in an amount equal to all payments made by the
24 petitioner to the confidential intermediary, and the adoption
25 agency shall be subject to a civil monetary penalty of \$1,000
26 to be paid to the Department of Children and Family Services.

1 Following the issuance of a court order finding that the
2 adoption agency has not complied with Section 18.3, the
3 adoption agency shall be subject to a monetary penalty of \$500
4 per day for each subsequent day of non-compliance. Proceeds
5 from such fines shall be utilized by the Department of Children
6 and Family Services to subsidize the fees of petitioners as
7 referenced in subsection (d) of this Section.

8 (q) Provide information to eligible petitioner. The
9 confidential intermediary may provide to eligible petitioners
10 as described in subsections (a) and (b) of this Section, the
11 name of the child welfare agency which had legal custody of the
12 surrendered person or responsibility for placing the
13 surrendered person and any available contact information for
14 such agency. In addition, the confidential intermediary may
15 provide to such petitioners the name of the state in which the
16 surrender occurred or in which the adoption was finalized.

17 Any reimbursements and fines, notwithstanding any
18 reimbursement directly to the petitioner, paid under this
19 subsection are in addition to other remedies a court may
20 otherwise impose by law.

21 ~~Proceeds from the penalties paid to the Department of~~
22 ~~Children and Family Services shall be deposited into the DCFS~~
23 ~~Children's Services Fund.~~ The Department of Children and Family
24 Services shall submit reports to the Confidential Intermediary
25 Advisory Council by July 1 and January 1 of each year in order
26 to report the penalties assessed and collected under this

1 subsection, the amounts of related deposits into the DCFS
2 Children's Services Fund, and any expenditures from such
3 deposits.

4 (Source: P.A. 93-189, eff. 1-1-04; 94-173, eff. 1-1-06;
5 94-1010, eff. 10-1-06.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."