



February 10, 2017

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## HOUSE BILL No. 1513

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DIGEST OF HB 1513 (Updated February 8, 2017 5:04 pm - DI 124)

**Citations Affected:** IC 35-46.

**Synopsis:** Crimes involving adoption. Amends the criminal provision concerning unauthorized adoption advertising. Increases, from \$3,000 to \$4,000, the allowable payment for certain costs and expenses with respect to an adoption. Makes the following crimes a Level 6 felony (instead of a Class A misdemeanor): (1) Adoption deception. (2) Unauthorized adoption advertising.

**Effective:** July 1, 2017.

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### Olthoff, Schaibley

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January 18, 2017, read first time and referred to Committee on Courts and Criminal Code.  
February 9, 2017, amended, reported — Do Pass.

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HB 1513—LS 6883/DI 110





February 10, 2017

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1513

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1           SECTION 1. IC 35-46-1-9, AS AMENDED BY P.L.46-2016,  
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 9. (a) Except as provided in subsection (b), a  
4 person who, with respect to an adoption, transfers or receives any  
5 property in connection with the waiver of parental rights, the  
6 termination of parental rights, the consent to adoption, or the petition  
7 for adoption commits profiting from an adoption, a Level 6 felony.  
8           (b) This section does not apply to the transfer or receipt of:  
9           (1) reasonable attorney's fees;  
10           (2) hospital and medical expenses concerning childbirth and  
11           pregnancy incurred by the adopted person's birth mother;  
12           (3) reasonable charges and fees levied by a child placing agency  
13           licensed under IC 31-27 or the department of child services;  
14           (4) reasonable expenses for psychological counseling relating to  
15           adoption incurred by the adopted person's birth parents;  
16           (5) reasonable costs of housing, utilities, and phone service for the  
17           adopted person's birth mother during the second or third trimester

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- 1 of pregnancy and not more than six (6) weeks after childbirth;  
 2 (6) reasonable costs of maternity clothing for the adopted person's  
 3 birth mother;  
 4 (7) reasonable travel expenses incurred by the adopted person's  
 5 birth mother that relate to the pregnancy or adoption;  
 6 (8) any additional itemized necessary living expenses for the  
 7 adopted person's birth mother during the second or third trimester  
 8 of pregnancy and not more than six (6) weeks after childbirth, not  
 9 listed in subdivisions (5) through (7) in an amount not to exceed  
 10 one thousand dollars (\$1,000); or  
 11 (9) other charges and fees approved by the court supervising the  
 12 adoption, including reimbursement of not more than actual wages  
 13 lost as a result of the inability of the adopted person's birth mother  
 14 to work at her regular, existing employment due to a medical  
 15 condition, excluding a psychological condition, if:
- 16 (A) the attending physician of the adopted person's birth
  - 17 mother has ordered or recommended that the adopted person's
  - 18 birth mother discontinue her employment; and
  - 19 (B) the medical condition and its direct relationship to the
  - 20 pregnancy of the adopted person's birth mother are
  - 21 documented by her attending physician.
- 22 In determining the amount of reimbursable lost wages, if any, that are  
 23 reasonably payable to the adopted person's birth mother under  
 24 subdivision (9), the court shall offset against the reimbursable lost  
 25 wages any amounts paid to the adopted person's birth mother under  
 26 subdivisions (5) and (8) and any unemployment compensation received  
 27 by or owed to the adopted person's birth mother.
- 28 (c) Except as provided in this subsection, payments made under  
 29 subsection (b)(5) through (b)(9) may not exceed ~~three~~ **four** thousand  
 30 dollars ~~(\$3,000)~~ **(\$4,000)** and must be disclosed to the court  
 31 supervising the adoption. The amounts paid under subsection (b)(5)  
 32 through (b)(9) may exceed ~~three~~ **four** thousand dollars ~~(\$3,000)~~  
 33 **(\$4,000)** to the extent that a court with jurisdiction over the child who  
 34 is the subject of the adoption approves the expenses after determining  
 35 that:
- 36 (1) the expenses are not being offered as an inducement to
  - 37 proceed with an adoption; and
  - 38 (2) failure to make the payments may seriously jeopardize the
  - 39 health of either the child or the mother of the child and the direct
  - 40 relationship is documented by a licensed social worker or the
  - 41 attending physician.
  - 42 (d) The payment limitation under subsection (c) applies to the total



1 amount paid under subsection (b)(5) through (b)(9) in connection with  
 2 an adoption from all prospective adoptive parents, attorneys, and  
 3 licensed child placing agencies.

4 (e) An attorney or licensed child placing agency shall inform a birth  
 5 mother of the penalties for committing adoption deception under  
 6 section 9.5 of this chapter before the attorney or agency transfers a  
 7 payment for adoption related expenses under subsection (b) in relation  
 8 to the birth mother.

9 (f) The limitations in this section apply regardless of the state or  
 10 country in which the adoption is finalized.

11 SECTION 2. IC 35-46-1-9.5, AS AMENDED BY P.L.146-2007,  
 12 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2017]: Sec. 9.5. A person who is a birth mother, or a woman  
 14 who holds herself out to be a birth mother, and who knowingly or  
 15 intentionally benefits from adoption related expenses paid:

16 (1) when the person knows or should have known that the person  
 17 is not pregnant;

18 (2) by or on behalf of a prospective adoptive parent who is  
 19 unaware that at the same time another prospective adoptive parent  
 20 is also paying adoption related expenses described under section  
 21 9(b) of this chapter in an effort to adopt the same child; or

22 (3) when the person does not intend to make an adoptive  
 23 placement;

24 commits adoption deception, a ~~Class A misdemeanor~~ **Level 6 felony**.  
 25 In addition to any other penalty imposed under this section, a court may  
 26 order the person who commits adoption deception to make restitution  
 27 to a prospective adoptive parent, attorney, or licensed child placing  
 28 agency that incurs an expense as a result of the offense.

29 SECTION 3. IC 35-46-1-21, AS AMENDED BY P.L.21-2010,  
 30 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2017]: Sec. 21. **(a) As used in this section, "advertisement"**  
 32 **means any communication by any medium within the borders of**  
 33 **Indiana, including print advertisements, digital advertisements,**  
 34 **radio, television, and outdoor advertising signs.**

35 ~~(a)~~ **(b)** Only a person that is an attorney licensed to practice law in  
 36 **Indiana** or a child placing agency licensed under the laws of Indiana  
 37 may place ~~a paid an advertisement or paid listing of the person's~~  
 38 ~~telephone number; on the person's own behalf; in a telephone directory~~  
 39 that:

40 (1) a child is offered or wanted for adoption; or

41 (2) the person is able to place, locate, or receive a child for  
 42 adoption.



1           ~~(b)~~ (c) A person **described in subsection (b)** that publishes a  
2 telephone directory that is distributed **places an advertisement in**  
3 Indiana

4           ~~(1)~~ shall include, at the beginning of any classified heading for  
5 adoption and adoption services, a statement that informs directory  
6 users that only attorneys licensed to practice law and licensed  
7 child placing agencies may legally provide adoption services  
8 under Indiana law; and

9           ~~(2)~~ may publish an advertisement described in subsection (a) in  
10 the telephone directory only if the advertisement contains the  
11 following: **shall include the following in the advertisement:**

12           ~~(A)~~ **(1)** For an attorney licensed to practice law in Indiana, the  
13 person's attorney number.

14           ~~(B)~~ **(2)** For a child placing agency licensed under the laws of  
15 Indiana, the number on the person's child placing agency  
16 license.

17           ~~(c)~~ **(d)** A person who knowingly or intentionally violates subsection  
18 ~~(a)~~ **(b)** commits unauthorized adoption advertising, a **Class A**  
19 **misdemeanor. Level 6 felony.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1513, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 20 through 42.

Page 5, delete lines 1 through 41.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1513 as introduced.)

WASHBURNE

Committee Vote: yeas 11, nays 0.

