

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ADOPTION LAWS REGARDING LICENSURE
5 REQUIREMENTS FOR CHILD-PLACEMENT AGENCIES; PROVIDING AN EXEMPTION FROM LICENSURE
6 FOR AN ATTORNEY OR HEALTH CARE PROVIDER ASSISTING A PARENT IN IDENTIFYING OR
7 LOCATING A CHILD FOR ADOPTION OR AN ADOPTIVE PARENT; AND AMENDING SECTIONS 42-7-105
8 AND 52-8-103, MCA."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 42-7-105, MCA, is amended to read:

13 **"42-7-105. Prohibited activities -- violations -- penalties.** (1) A person, other than the department,
14 an attorney or health care provider acting under 52-8-103(2), or a licensed child-placing agency, may not:

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

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

17 (ii) is willing to accept a child for adoption or knows of

18 (b) engage in placement activities as defined in 52-

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

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

26 (4) It is illegal to require repayment or reimbursement of anything provided to a birth parent under 42-
27 7-101. All payments by the adoptive parent made on behalf of a birth parent pursuant to this section are
28 considered a gift to the birth parent.

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

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11 Section 2. Section 52-8-103, MCA, is amended to read:

12 "52-8-103. License required -- exception -- term of license -- no fee charged. (1) Only Except as
13 provided in subsection (2), only an entity holding a current child-placing agency license issued by the
14 department may act as an agency for the purpose of:

- 15 (a) procuring or selecting proposed adoptive or foster homes;
- 16 (b) placing children in proposed adoptive or foster homes;
- 17 (c) soliciting persons to adopt or foster children or arranging for persons to adopt or foster children;
- 18 (d) soliciting persons to relinquish children or place children in potential adoptive or foster homes; or
- 19 (e) engaging in placement activities.

26 (b) For the purposes of this subsection (2), "health care provider" means a person licensed under Title
27 37 whose scope of practice includes the provision of obstetrical care.

28 (2)(3) Licenses are valid for 1 year after issuance. A fee may not be charged for a license."

