



# State of Tennessee

## PUBLIC CHAPTER NO. 361

### HOUSE BILL NO. 606

By Representatives Hawk, Helton-Haynes, Jernigan, Bulso, Hakeem, Butler, Wright, Powell, Towns, Eldridge, Littleton, Raper, Cepicky, Ragan, Davis, Howell, Thompson

Substituted for: Senate Bill No. 542

By Senators Walley, Haile, Crowe, Reeves, Kyle, White

AN ACT to amend Tennessee Code Annotated, Title 29; Title 36; Title 37; Title 47 and Title 71, relative to adoption.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following new subdivisions:

- ( ) Violating § 36-1-108(a) or (b);
- ( ) Violating § 36-1-109;
- ( ) Providing services related to the placement of a child or children for adoption, including, but not limited to, counseling or facilitating, and the services are provided using false or misleading representations of fact or deceptive representations;

SECTION 2. Tennessee Code Annotated, Section 36-1-102, is amended by adding the following as a new subdivision:

( ) "Adoption facilitator":

(A) Means a person, corporation, agency, or other entity, located inside or outside of this state, that provides or engages in any of the following services in exchange for compensation in violation of § 36-1-108 or § 36-1-109, whether directly or indirectly:

(i) Soliciting parents who are considering placing their child for adoption, whether born or not yet born, for the purpose of acting as a link between the prospective adoptive parents, or the prospective adoptive parents' representative, attorney, or agency, for the transfer of legal or physical custody of their child, including, but not limited to, adoptive placement; or

(ii) Soliciting prospective adoptive parents for the purpose of acting as a link between parents who are considering placing their child for adoption, whether born or not yet born, and the prospective adoptive parents, or the prospective adoptive parents' representative, attorney, or agency, for the transfer of legal custody of their child, including, but not limited to, adoptive placement; and

(B) Does not include:

- (i) The department;
- (ii) A licensed child-placing agency;
- (iii) A chartered child-placing agency;
- (iv) A licensed clinical social worker;
- (v) A licensed attorney;

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(vi) A prospective adoptive parent or parents; or

(vii) A parent or parents considering placing their child for adoption.

SECTION 3. Tennessee Code Annotated, Section 36-1-108, is amended by deleting subdivision (a)(3) and substituting:

(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.

SECTION 4. Tennessee Code Annotated, Section 36-1-108, is amended by deleting subdivision (c)(2) and substituting:

(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.

SECTION 5. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following as a new section:

**29-34-214. Liability of adoption facilitator.**

(a) For purposes of this part, "adoption facilitation claim" means any claim for damages, losses, indemnification, contribution, or other relief against an adoption facilitator arising out of, based on, or in any way related to the adoption or prospective adoption of a child.

(b) Adoptive parents or prospective adoptive parents who have provided compensation, whether directly or indirectly, to an adoption facilitator as defined in § 36-1-102, may bring a civil action alleging an adoption facilitation claim against such adoption facilitator who acted in violation of title 36, chapter 1, or title 71, chapter 3, part 5.

(c) A person who brings a successful claim for adoption facilitation under this section may recover:

(1) Compensatory damages, including, but not limited to, noneconomic damages, as defined in § 29-39-101(2);

(2) Punitive damages, as provided in § 29-39-104, if appropriate; and

(3) Liquidated damages of no less than twice the total amount paid to the adoption facilitator. Liquidated damages must be awarded on a per-child basis for each child who is adopted in violation of state law.

(d) A claim or judgment entered against an adoption facilitator under this section does not affect the finalization of a pending adoption and must not be used to set aside a final order of adoption.

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SECTION 6. Tennessee Code Annotated, Section 36-1-108, is amended by adding the following as a new subsection:

(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 subsection (e) is a Class A misdemeanor.

SECTION 7. The heading in this act is for reference purposes only and does not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the heading in any compilation or publication containing this act.

SECTION 8. This act takes effect July 1, 2023, the public welfare requiring it.

