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House Bill 5149 (as passed by the House)
Sponsor: Representative Douglas C. Wozniak
House Committee: Families, Children and Seniors
 Judiciary
Senate Committee: Families, Seniors, and Veterans

Date Completed: 7-21-20

CONTENT

The bill would amend the Michigan Penal Code to exempt services provided by an adoption attorney related to a court supervised adoption proceeding under Chapter X (Michigan Adoption Code) of the Probate Code from prohibitions of the Michigan Penal Code related to the transfer of legal or physical custody in certain circumstances.

Except as otherwise provided, the Code prohibits a person from doing the following, whether the person receives money or other valuable consideration for doing so:

- Transferring or attempting to transfer the legal or physical custody of a child with the intent to permanently divest a parent of parental responsibility, except by order of a court competent jurisdiction.
- Arranging for or assisting in the permanent transfer, adoption, adoptive placement, or any other permanent physical placement of a child, except for the performance of adoption services.
- Assisting, aiding, abetting, or conspiring in the commission of an act described above.

Under the bill, the prohibition above would not apply to services provided by an adoption attorney relating to a court supervised adoption proceeding under Chapter X of the Probate Code, or to an adoption attorney providing services under any of the circumstances described below.

The Code currently specifies that the prohibition above does not apply to the placement of a child under one or more of the following conditions:

- With a relative, a child placing agency, or the Department of Health and Human Services (DHHS).
- By a child placing agency or the DHHS.
- In accordance with the interstate compact on placement of children.
- In which the child will be returned in less than 180 days.
- With the specific intent that the child will be returned, that the placement benefits the child, and that it is based on certain temporary needs of the family.

In addition, the bill specifies that the prohibition above would not apply to the placement of a child in accordance with Chapter X of the Probate Code.

The bill would take effect 90 days after its enactment.

MCL 750.136c

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.