

HOUSE BILL No. 5727

April 2, 1998, Introduced by Rep. Profit and referred to the Committee on Judiciary.

A bill to amend 1939 PA 288, entitled

"An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; and to provide remedies and penalties,"

by amending section 54 (MCL 710.54), as amended by 1994 PA 222.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 54. (1) Except for charges and fees approved by the
2 court, a person shall not pay or give, offer to pay or give, or
3 request, receive, or accept any money or other consideration or

1 thing of value, directly or indirectly, in connection with any of
2 the following:

3 (a) The placing of a child for adoption.

4 (b) The registration, recording, or communication of the
5 existence of a child available for adoption.

6 (c) A release.

7 (d) A consent.

8 (e) A petition.

9 (2) Except for a child placing agency's preparation of a
10 preplacement assessment described in section 23f of this chapter
11 or investigation under section 46 of this chapter, a person shall
12 not be compensated for ANY OF the following activities:

13 (a) Assisting a parent or guardian in evaluating a potential
14 adoptive parent.

15 (b) Assisting a potential adoptive parent in evaluating a
16 parent or guardian or adoptee.

17 (c) Referring a prospective adoptive parent to a parent or
18 guardian of a child for purposes of adoption.

19 (d) Referring a parent or guardian of a child to a prospec-
20 tive adoptive parent for purposes of adoption.

21 (3) An adoptive parent may pay the reasonable and actual
22 charge for all of the following:

23 (a) The services of a child placing agency in connection
24 with an adoption.

25 (b) Medical, hospital, nursing, or pharmaceutical expenses
26 incurred by the birth mother or the adoptee in connection with
27 the birth or any illness of the adoptee, if not covered by the

1 birth parent's private health care payment or benefits plan or by
2 Medicaid.

3 (c) Counseling services related to the adoption for a
4 parent, a guardian, or the adoptee.

5 (d) Living expenses of a mother before the birth of the
6 child and for no more than 6 weeks after the birth.

7 (e) Expenses incurred in ascertaining the information
8 required under this chapter about an adoptee and the adoptee's
9 biological family.

10 (f) Legal fees charged for consultation and legal advice,
11 preparation of papers, and representation in connection with an
12 adoption proceeding, including legal services performed for a
13 biological parent or a guardian and necessary court costs in an
14 adoption proceeding.

15 (g) Traveling expenses necessitated by the adoption.

16 (4) An adoptive parent shall pay the reasonable and actual
17 charge for preparation of the preplacement assessment and any
18 additional investigation ordered pursuant to section 46 of this
19 chapter. HOWEVER, THE CHARGE SHALL BE WAIVED IF AN ADOPTIVE
20 PARENT HAS PAID A PREPLACEMENT ASSESSMENT CHARGE PURSUANT TO SEC-
21 TION 424 OF THE REVISED PROBATE CODE, 1978 PA 642, MCL 700.424.

22 (5) A prospective adoptive parent shall pay for counseling
23 for the parent or guardian related to the adoption, unless the
24 parent or guardian waives the counseling pursuant to section 29
25 or 44.

26 (6) A payment authorized by subsection (3) shall not be made
27 contingent on the placement of the child for adoption, release of

1 the child, consent to the adoption, or cooperation in the
2 completion of the adoption. If the adoption is not completed, an
3 individual who has made payments authorized by subsection (3) may
4 not recover them.

5 (7) At least 7 days before formal placement of a child under
6 section 51 of this chapter, the following documents shall be
7 filed with the court:

8 (a) A verified accounting signed by the petitioner itemizing
9 all payments or disbursements of money or anything of value made
10 or agreed to be made by or on behalf of the petitioner in connec-
11 tion with the adoption. The accounting shall include the date
12 and amount of each payment or disbursement made, the name and
13 address of each recipient, and the purpose of each payment or
14 disbursement. Receipts shall be attached to the accounting.

15 (b) A verified statement of the attorney for each petitioner
16 itemizing the services performed and any fee, compensation, or
17 other thing of value received by, or agreed to be paid to, the
18 attorney for, or incidental to, the adoption of the child. If
19 the attorney is an adoption attorney representing a party in a
20 direct placement adoption, the verified statement shall contain
21 the following statements:

22 (i) The attorney meets the requirements for an adoption
23 attorney under section 22 of this chapter.

24 (ii) The attorney did not request or receive any compensa-
25 tion for services described in section 54(2) of this chapter.

26 (c) A verified statement of the attorney for each parent of
27 the adoptee itemizing the services performed and any fee,

1 compensation, or other thing of value received by, or agreed to
2 be paid to, the attorney for, or incidental to, the adoption of
3 the child. If the attorney is an adoption attorney representing
4 a party in a direct placement adoption, the verified statement
5 shall contain the following statements:

6 (i) The attorney meets the requirements for an adoption
7 attorney under section 22 of this chapter.

8 (ii) The attorney did not request or receive any compensa-
9 tion for services described in section 54(2) of this chapter.

10 (d) A verified statement of the child placing agency or the
11 department itemizing the services performed and any fee, compen-
12 sation, or other thing of value received by, or agreed to be paid
13 to, the child placing agency or the department for, or incidental
14 to, the adoption of the child, and containing a statement that
15 the child placing agency or the department did not request or
16 receive any compensation for services described in section 54(2)
17 of this chapter.

18 (8) At least 21 days before the entry of the final order of
19 adoption, the documents described in subsection (7) shall be
20 updated and filed with the court.

21 (9) To assure compliance with limitations imposed by this
22 section and section 55 of this chapter and by section 14 of ~~Act~~
23 ~~No. 116 of the Public Acts of 1973, being section 722.124 of the~~
24 ~~Michigan Compiled Laws~~ 1973 PA 116, MCL 722.124, the court may
25 require sworn testimony from persons who were involved in any way
26 in informing, notifying, exchanging information, identifying,
27 locating, assisting, or in any other way participating in the

1 contracts or arrangements that, directly or indirectly, led to
2 placement of the individual for adoption.

3 (10) The court shall approve or disapprove all fees and
4 expenses. Acceptance or retention of amounts in excess of those
5 approved by the court constitutes a violation of this section.

6 (11) A person who violates this section is guilty of a mis-
7 demeanor punishable by imprisonment for not more than 90 days or
8 a fine of not more than \$100.00, or both, for the first viola-
9 tion, and of a felony punishable by imprisonment for not more
10 than 4 years or a fine of not more than \$2,000.00, or both, for
11 each subsequent violation. The court may enjoin from further
12 violations any person who violates this section.