

HOUSE BILL NO. 5149

October 24, 2019, Introduced by Reps. Wozniak, Brenda Carter and LaFave and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 136c (MCL 750.136c), as amended by 2016 PA 482.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 136c. (1) A person shall not transfer or attempt to
2 transfer the legal or physical custody of an individual to another
3 person for money or other valuable consideration, except as
4 otherwise permitted by law.

5 (2) A person shall not acquire or attempt to acquire the legal

1 or physical custody of an individual for payment of money or other
2 valuable consideration to another person, except as otherwise
3 permitted by law.

4 (3) Except as provided in ~~subsection (4)~~, **subsections (4) and**
5 **(5)**, a person shall not do any of the following, whether or not the
6 person receives money or other valuable consideration for doing so:

7 (a) Transfer or attempt to transfer the legal or physical
8 custody of a child with the intent to permanently divest a parent
9 of parental responsibility, except by order of a court of competent
10 jurisdiction.

11 (b) Arrange for or assist in the permanent transfer, adoption,
12 adoptive placement, or any other permanent physical placement of a
13 child, except for the performance of adoption activities under 1973
14 PA 116, MCL 722.111 to 722.128, in the performance of the person's
15 duties.

16 (c) Assist, aid, abet, or conspire in the commission of an act
17 described in subdivision (a) or (b).

18 **(4) Subsection (3) does not apply to services provided by an**
19 **adoption attorney relating to a court supervised adoption**
20 **proceeding under chapter X of the probate code of 1939, 1939 PA**
21 **288, MCL 710.21 to 710.70, or to an adoption attorney providing**
22 **services under any of the circumstances described under subsection**
23 **(5).**

24 **(5) ~~(4)~~—Subsection (3) does not apply to the placement of a**
25 **child under 1 or more of the following conditions:**

26 (a) With a relative, a child placing agency, or the department
27 **of health and human services.**

28 (b) By a child placing agency or the department **of health and**
29 **human services.**

1 (c) In accordance with the interstate compact on placement of
2 children, 1984 PA 114, MCL 3.711 to 3.717.

3 (d) In which the child will be returned in less than 180 days.

4 (e) With the specific intent that the child will be returned,
5 that the placement benefits the child, and that it is based on the
6 temporary needs of the family, including, but not limited to, 1 or
7 more of the following:

8 (i) Respite for the child and family.

9 (ii) A vacation or school-sponsored activity or function.

10 (iii) A temporary inability of the parent or legal guardian to
11 provide care for the child due to incarceration, military service,
12 medical treatment, or other incapacity of the parent or legal
13 guardian.

14 **(f) In accordance with chapter X of the probate code of 1939,**
15 **1939 PA 288, MCL 710.21 to 710.70.**

16 **(6)** ~~(5)~~—A person who violates this section is guilty of a
17 felony punishable by imprisonment for not more than 20 years or a
18 fine of not more than \$100,000.00, or both.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.