

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7860**

**BILL NUMBER:** SB 422

**NOTE PREPARED:** Jan 11, 2005

**BILL AMENDED:**

**SUBJECT:** Adoption Procedural Requirements.

**FIRST AUTHOR:** Sen. Clark

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill requires a petitioner for adoption to pay a \$30 Adoption History Record Keeping Fee.

The bill establishes requirements for prebirth waivers of paternity and waivers of notice of adoption, and specifies that a waiver is irrevocable. It prohibits a mother from executing a prebirth consent to adoption, and requires a father's prebirth consent to adoption to be in writing and notarized, and to contain an advisement that the waiver is irrevocable. The bill specifies that the burden of proof in certain adoption proceedings is by clear and convincing evidence.

The bill requires a child placing agency, a governmental entity, or an adoption attorney to maintain adoption records for 40 years and provides for the transfer of these records in certain situations. It also makes a name change requested in an out-of-state adoption petition effective in Indiana.

The bill makes it a Class D felony for certain persons to: (1) receive compensation or reimbursement for locating children, expectant mothers, or adoptive parents with the intent of facilitating an adoption; or (2) advertise that a child is available for adoption or that the person is able to place, locate, or receive a child for adoption.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Penalty Provision:* The bill makes it a Class D felony for a person to accept compensation or reimbursement for services related to locating a child, an expectant mother, or a

prospective adoptive parent, with the intent to facilitate an adoption. The bill also makes it a Class D felony for a person to knowingly or intentionally advertise (1) a child offered or sought for adoption, or (2) that the person is able to place, locate, or receive a child for adoption. There are no data available to indicate how many people may be convicted of either of the aforementioned offenses.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

*Creation of Forms and Transfer/Storage of Information:* The bill requires the State Registrar to create a form for facilitating the transfer of, and to store, all adoption records to the State Registrar for inclusion in the adoption history program from child placing agencies, governmental entities, or licensed attorneys, who have arranged or facilitated an adoption and are no longer operating or practicing in Indiana. The Family and Social Services Administration (FSSA) reports that it maintains adoption records indefinitely. Thus, any information transferred to the registrar would be transferred from child placing agencies or licensed attorneys. The number of these entities which would cease operations or practice is unknown. The State Registrar reports that it currently maintains adoption records in both hard copy and a database.

*Adoption Notices:* The bill allows a notice of adoption after the birth of a child not be delivered to a putative father if the putative father could not be located through notice prior to the child's birth and the father has not registered at that address with the putative father registry. This requirement of the bill could result in fewer notices being served. FSSA reports that methods of notice are in writing, however, this varies by county. The cost to send a one-ounce certified mail letter with a return receipt requested is \$4.42.

*Court Time:* The bill disallows a father, who has consented to adoption, from contesting or challenging the child's adoption. This could result in a reduction of court time if fathers that previously would have contested a child's adoption are no longer able to do so. This could also result in a loss of state and local revenue (see *Explanation of State Revenues*).

**Explanation of State Revenues:** *Adoption Fee:* The bill requires a non-relative petitioner for adoption to pay an Adoption History Record Keeping Fee of \$30. In CY 2003, there were 3,430 adoptions in the state of Indiana. FSSA reports that approximately 57% of children adopted through FSSA are adopted by relatives. Using this percentage, 1,475 children were not adopted by a relative in CY 2003, which would result in estimated revenue of \$44,250.

*Child Support:* The bill requires a child support obligation owed by a biological or previous adoptive parent for an adopted child continue after their adoption. There are no data available to estimate the number of adopted children that held a support obligation order prior to their adoption. Continued collection could increase the state's revenue, however, any increase is dependent on the number of children holding a support obligation prior to adoption and the amount of money collected for that particular obligation.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

*Court Fee Revenue:* The bill disallows a father, who has consented to adoption from contesting or challenging the child's adoption. This could result in a revenue reduction for both state and local governments.

State: A decrease in revenue to the state General Fund may occur if fewer court fees are collected. A civil filing fee of \$100 is normally assessed when a civil case is filed, 70% of which is deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Local: A reduction in local revenue could occur if fewer court fees are collected. The county general fund receives 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee is deposited in the county general fund and 25% is deposited in the city or town general fund.

**Explanation of Local Expenditures:** *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

See *Explanation of State Revenues*.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, city and town courts, local law enforcement agencies.

**Information Sources:** Angela Hoover, FSSA, 233-0890; Katheryn Brigham, Department of Health; Jane Bisbee, FSSA; Division of State Court Administration, Indiana Trial Courts, Cases Filed (Data).

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