OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 713
136th General Assembly

Bill Analysis

Click here for H.B. 713's Fiscal Note

Version: As Introduced

Primary Sponsors: Reps. Somani and Hoops

Amy L. Archer, Research Analyst

SUMMARY

- Prohibits the Department of Children and Youth (DCY) from certifying a private child placing agency (PCPA) or private noncustodial agency (PNA) unless the agency operates as a nonprofit.
- Repeals current law that allows (1) a child's biological parent to advertise the child's availability for adoption, and (2) a qualified adoptive parent to advertise availability for receiving placement of a child for purposes of adopting the child.
- Establishes civil penalties and increases criminal penalties for violations of adoption advertising prohibitions.
- Prohibits any person or entity, other than an agency or attorney from providing or offering to provide any service to aid or promote an adoption for compensation.
- Prohibits an agency or attorney from referring clients to (1) any person or entity, out-of-state or in Ohio, that offers prohibited adoption services or adoption advertising or (2) any person or entity in Ohio that is not certified by DCY.
- Establishes civil and criminal penalties for violations of adoption services prohibitions.

DETAILED ANALYSIS

Private agency nonprofit requirement

Under continuing law, the Department of Children and Youth (DCY) is responsible for certifying certain institutions and associations that receive or care for children, including private child placing agencies (PCPAs) and private noncustodial agencies (PNAs), and ensuring that such

institutions and associations comply with Ohio law. The bill prohibits DCY from certifying a PCPA or PNA unless the agency operates as a nonprofit.[1]

Adoption advertising

Who may advertise

The bill repeals current law that allows both the following:

- A child's biological parent to advertise the child's availability for adoption to a qualified adoptive parent.
- A qualified adoptive parent to advertise that they are available for placement of a child into their care for purposes of adopting the child.[2]

Under continuing law, a government entity is permitted to advertise its role in the placement of children for adoption or any other information that would be relevant to qualified adoptive parents.

The bill expands the definition of "advertise" to mean a method of promotion or communication that is electronic, written, visual, or oral and made by means of personal representation, newspaper, magazine, circular, billboard, direct mailing, sign, radio, television, telephone, internet, print, or any other medium for the provision of any service to aid or promote an adoption for direct or indirect compensation by a person or entity other than a PCPA or PNA certified by DCY or a public children services agency (PCSA).

Continuing law defines a "qualified adoptive parent" as a person who is eligible to adopt a child under Ohio law and, if required, who has completed a home study.[3]

Civil penalties

Under the bill, any person, including an interested party, who has reasonable cause to believe a violation of the adoption advertising prohibitions under the bill and in continuing law has been committed may bring a civil action for injunctive relief. The person also may recover damages of at least $5,000 for each violation, punitive damages, and reasonable attorney's fees.

Continuing law allows DCY to notify the Attorney General or a county prosecutor, city attorney, village solicitor, or other chief legal officer with jurisdiction if DCY has reasonable cause to believe the adoption advertising prohibitions have been violated. The bill expands the enforcement actions that can be taken to include restitution or other equitable relief, in addition to injunctive relief or criminal charges under existing law.

[1] R.C. 5103.03(B) and (J); R.C. 5103.01(A)(1) and (2), not in the bill.

[2] R.C. 5103.17(C) and (D) in current law, repealed in the bill.

[3] R.C. 5103.17(A)(1) and (3) and (C).

The bill defines an "interested party" as any person or entity directly affected by a violation of the adoption advertising prohibitions under the bill and in continuing law, including prospective adoptive parents and birth parents.[4]

Criminal penalties

The bill increases the penalty for violating adoption advertising prohibitions. Under the bill, whoever negligently violates the adoption advertising prohibitions is guilty of a fifth degree felony. The court must sentence the offender in accordance with laws governing criminal penalties and sentencing, including a prison term of six to twelve months, except it must impose a fine of $5,000 to $15,000 rather than the conventional fines for felonies under existing law (up to $2,500 for a fifth degree felony).

Under current law, whoever violates the adoption advertising prohibitions must be fined $500 to $1,000, imprisoned for up to six months, or both.[5]

Adoption services

Prohibitions

The bill prohibits any person or entity other than an agency or attorney from providing or offering to provide any direct or indirect service to aid or promote an adoption for direct or indirect compensation. No agency or attorney is permitted to refer clients to either of the following:

- An out-of-state person or entity that offers prohibited adoption services or adoption advertising;
- A person or entity in Ohio that is not certified by DCY or offers prohibited adoption services or adoption advertising.

The bill specifies that nothing in the adoption services prohibition law may be construed as limiting any person from informally aiding or promoting an adoption, without receiving or requesting direct or indirect compensation, by making a person seeking to adopt a minor aware of a minor who will be or is available for adoption. Current law provides that any person may aid or promote an adoption by making a person seeking to adopt a minor aware of a minor who will be or is available for adoption.

The bill defines "entity" as an unincorporated nonprofit association; a nonprofit corporation; a for profit corporation; an unincorporated business or for-profit organization, including a general or limited partnership; a limited liability company; or any other legal or commercial entity the formation and operation of which is governed by statute. "Entity" includes a domestic or foreign entity.[6] An "agency" is defined under continuing law as any public or private

[4] R.C. 2307.68 and 5103.17(A)(2), (D), and (E).

[5] R.C. 5103.99; R.C. Chapter 2929, not in the bill.

[6] R.C. 3107.011(B) to (F).

organization certified, licensed, or otherwise specially empowered by law or rule to place minors for adoption.[7]

Civil penalties

Continuing law provides that anyone injured in person or property by a criminal act may recover full damages in a civil action. Under the bill, any person or entity that brings a civil action for the violation of the bill's adoption services prohibitions may recover damages of at least $5,000 for each violation, punitive damages, and reasonable attorney's fees.[8]

Criminal penalties

The bill establishes criminal penalties for violating the bill's adoption services prohibitions. Under the bill, whoever knowingly violates the bill's prohibition on providing or offering to provide any service to aid or promote an adoption for compensation is guilty of a fifth degree felony. The court must sentence the offender in accordance with laws governing criminal penalties and sentencing, including a prison term of six to twelve months, except it must impose a fine of $15,000 to $30,000 rather than the conventional fines for felonies under existing law (up to $2,500 for a fifth degree felony).

Additionally, whoever knowingly violates the bill's prohibition on providing prohibited adoption referrals is guilty of a first degree misdemeanor, which is punishable by not more than 180 days in jail, a fine of not more than $1,000, or both.[9]

HISTORY

Action	Date
Introduced	02-24-26

ANHB0713IN-136/ks

[7] R.C. 3107.01(B), not in the bill.

[8] R.C. 2307.68; R.C. 2307.60, not in the bill.

[9] R.C. 3107.99; R.C. Chapter 2929, not in the bill.