

As Introduced

136th General Assembly

Regular Session

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H. B. No. 713

Representatives Somani, Hoops

Cosponsors: Representatives Sigrist, Brennan, Lett

To amend sections 3107.011, 3107.99, 5103.03,
5103.17, and 5103.99 and to enact section
2307.68 of the Revised Code regarding adoption
advertising and facilitation.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3107.011, 3107.99, 5103.03,
5103.17, and 5103.99 be amended and section 2307.68 of the
Revised Code be enacted to read as follows:

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Sec. 2307.68. (A) A person or entity that brings a civil
action pursuant to division (A) of section 2307.60 of the
Revised Code to recover damages from any person or entity that
caused injury to person or property by violating division (B) or
(C) of section 3107.011 or section 5103.17 of the Revised Code
may recover damages of not less than five thousand dollars for
each violation, punitive damages, and reasonable attorney's
fees.

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(B) As used in this section, "entity" has the same meaning
as in section 1745.05 of the Revised Code.

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Sec. 3107.011. (A) Except for an adoption by a stepparent,
a grandparent, adult sibling, a legal custodian, or a guardian,

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a person seeking to adopt a minor shall utilize an agency or attorney to arrange the adoption. Only an agency or attorney may arrange an adoption. An attorney may not represent with regard to the adoption both the person seeking to adopt and the parent placing a child for adoption. As used in this chapter, "grandparent," "adult sibling," "legal custodian," and "guardian" include that individual's spouse when a joint adoption is pending.

(B) No person or entity other than an agency or attorney shall provide or offer to provide any direct or indirect service to aid or promote an adoption for direct or indirect compensation.

(C) No agency or attorney shall refer clients to either of the following:

(1) An out-of-state person or entity that offers services prohibited under this section or section 5103.17 of the Revised Code;

(2) A person or entity in this state that is not certified under section 5103.03 of the Revised Code or offers services prohibited under this section or section 5103.17 of the Revised Code.

~~Any~~ (D) Nothing in this section shall be construed as limiting any person may from informally aid-aiding or promote-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.

~~(B)~~ (E) A person seeking to adopt a minor who knowingly makes a false statement that is included in an application submitted to an agency or attorney to obtain services of that

agency or attorney in arranging an adoption is guilty of the 49
offense of falsification under section 2921.13 of the Revised 50
Code. 51

(F) As used in this section, "entity" has the same meaning 52
as in section 1745.05 of the Revised Code. 53

Sec. 3107.99. (A) Whoever violates division (B) (1) of 54
section 3107.17 of the Revised Code is guilty of a misdemeanor 55
of the third degree. 56

(B) (1) Whoever knowingly violates division (B) of section 57
3107.011 of the Revised Code is guilty of a felony of the fifth 58
degree. The court shall sentence the offender under Chapter 59
2929. of the Revised Code, except that, notwithstanding the 60
conventional fines specified for felonies in section 2929.18 of 61
the Revised Code, the court shall impose a fine of not less than 62
fifteen thousand and not more than thirty thousand dollars. 63

(2) Whoever knowingly violates division (C) of section 64
3107.011 of the Revised Code is guilty of a misdemeanor of the 65
first degree. 66

Sec. 5103.03. (A) The director of children and youth shall 67
adopt rules as necessary for the adequate and competent 68
management and certification of institutions or associations. 69
The director shall ensure that foster care home study rules 70
adopted under this section align any home study content, time 71
period, and process with any home study content, time period, 72
and process required by rules adopted under section 3107.033 of 73
the Revised Code. 74

(B) (1) Except for facilities under the control of the 75
department of youth services, places of detention for children 76
established and maintained pursuant to sections 2152.41 to 77

2152.44 of the Revised Code, and child care centers subject to 78
Chapter 5104. of the Revised Code, the department of children 79
and youth shall pass upon the fitness of every institution and 80
association that receives, or desires to receive and care for 81
children, or places children in private homes, at a frequency 82
established by rules adopted under division (A) of this section. 83

(2) When the department of children and youth is satisfied 84
as to the care given such children, and that the requirements of 85
the statutes and rules covering the management of such 86
institutions and associations are being complied with, it shall 87
issue to the institution or association a certificate to that 88
effect. A certificate is valid for a length of time determined 89
by rules adopted under division (A) of this section. When 90
determining whether an institution or association meets a 91
particular requirement for certification, the department may 92
consider the institution or association to have met the 93
requirement if the institution or association shows to the 94
department's satisfaction that it has met a comparable 95
requirement to be accredited by a nationally recognized 96
accreditation organization. 97

(3) The department may issue a temporary certificate valid 98
for less than one year authorizing an institution or association 99
to operate until minimum requirements have been met. 100

(4) An institution or association that knowingly makes a 101
false statement that is included as a part of certification 102
under this section is guilty of the offense of falsification 103
under section 2921.13 of the Revised Code and the department 104
shall not certify that institution or association. 105

(5) The department shall not issue a certificate to a 106
prospective foster home or prospective specialized foster home 107

pursuant to this section if the prospective foster home or 108
prospective specialized foster home operates as a type A family 109
child care home pursuant to Chapter 5104. of the Revised Code. 110
The department shall not issue a certificate to a prospective 111
specialized foster home if the prospective specialized foster 112
home operates a type B family child care home pursuant to 113
Chapter 5104. of the Revised Code. 114

(C) The department may revoke a certificate pursuant to an 115
adjudication under Chapter 119. of the Revised Code if it finds 116
that the institution or association is in violation of law or 117
rule. No juvenile court shall commit a child to an association 118
or institution that is required to be certified under this 119
section if its certificate has been revoked or, if after 120
revocation, the date of reissue is less than fifteen months 121
prior to the proposed commitment. 122

(D) On a frequency specified by the department by rules 123
adopted under division (A) of this section, each institution or 124
association desiring certification shall submit to the 125
department a report showing its condition, management, 126
competency to care adequately for the children who have been or 127
may be committed to it or to whom it provides care or services, 128
the system of visitation it employs for children placed in 129
private homes, and other information the department requires. 130

(E) The department shall, not less than once each year, 131
send a list of certified institutions and associations to each 132
juvenile court and certified association or institution. 133

(F) No person shall receive children or receive or solicit 134
money on behalf of such an institution or association not so 135
certified or whose certificate has been revoked. 136

(G) (1) The director may delegate by rule any duties 137
imposed on it by this section to inspect and approve family 138
foster homes and specialized foster homes to public children 139
services agencies, private child placing agencies, or private 140
noncustodial agencies. 141

(2) The director shall adopt rules that require a foster 142
caregiver or other individual certified to operate a foster home 143
under this section to notify the recommending agency that the 144
foster caregiver or other individual is licensed to operate a 145
type B family child care home under Chapter 5104. of the Revised 146
Code. 147

(H) If the director of children and youth determines that 148
an institution or association that cares for children is 149
operating without a certificate, the director may petition the 150
court of common pleas in the county in which the institution or 151
association is located for an order enjoining its operation. The 152
court shall grant injunctive relief upon a showing that the 153
institution or association is operating without a certificate. 154

(I) If both of the following are the case, the director of 155
children and youth may petition the court of common pleas of any 156
county in which an institution or association that holds a 157
certificate under this section operates for an order, and the 158
court may issue an order, preventing the institution or 159
association from receiving additional children into its care or 160
an order removing children from its care: 161

(1) The department has evidence that the life, health, or 162
safety of one or more children in the care of the institution or 163
association is at imminent risk. 164

(2) The department has issued a proposed adjudication 165

order pursuant to Chapter 119. of the Revised Code to revoke the 166
certificate of the institution or association. 167

(J) The department shall not certify a private child 168
placing agency or private noncustodial agency under this section 169
unless the agency operates as a nonprofit. 170

Sec. 5103.17. (A) As used in this section: 171

(1) "Advertise" means a method of promotion or 172
communication that is electronic, written, visual, or oral and 173
made by means of personal representation, newspaper, magazine, 174
circular, billboard, direct mailing, sign, radio, television, 175
telephone, internet, print, or otherwise any other medium for the 176
provision of any service to aid or promote an adoption for 177
direct or indirect compensation by a person or entity other than 178
a private child placing agency or private noncustodial agency 179
certified by the department of children and youth under section 180
5103.03 of the Revised Code or a public children services 181
agency. 182

(2) "Interested party" means any person or entity directly 183
affected by a violation of this section, including prospective 184
adoptive parents and birth parents. 185

(3) "Qualified adoptive parent" means a person who is 186
eligible to adopt a child under section 3107.03 of the Revised 187
Code and for whom an assessor has conducted a home study to 188
determine whether the person is suitable to adopt a child, if 189
required by section 3107.031 of the Revised Code. 190

(B) Subject to section 5103.16 of the Revised Code and to 191
division (C), ~~(D)~~, ~~or (E)~~ of this section, no person or 192
government entity, other than a private child placing agency or 193
private noncustodial agency certified by the department of 194

children and youth under section 5103.03 of the Revised Code or 195
a public children services agency, shall advertise that the 196
person or government entity will adopt children or place them in 197
foster homes, hold out inducements to parents to part with their 198
offspring or in any manner knowingly become a party to the 199
separation of a child from the child's parents or guardians, 200
except through a juvenile court or probate court commitment. 201

~~(C) The biological parent of a child may advertise the 202~~
~~availability for placement of the parent's child for adoption to 203~~
~~a qualified adoptive parent. 204~~

~~(D) A qualified adoptive parent may advertise that the 205~~
~~qualified adoptive parent is available for placement of a child 206~~
~~into the qualified adoptive parent's care for the purpose of 207~~
~~adopting the child. 208~~

~~(E)~~ A government entity may advertise about its role in 209
the placement of children for adoption or any other information 210
that would be relevant to qualified adoptive parents. 211

~~(F)~~ (D) Except as provided in section 3107.055 of the 212
Revised Code, the following apply: 213

(1) No person shall offer money or anything of value in 214
exchange for placement of a child for adoption. 215

(2) No biological parent may request money or anything of 216
value in exchange for placement for adoption of the parent's 217
child with a qualified adoptive parent. 218

~~(G)~~ (E) (1) Any person, including an interested party, who 219
has reasonable cause to believe a violation of this section has 220
been committed may bring a civil action for injunctive relief. 221

(2) If the department of children and youth has reasonable 222

cause to believe a violation of this section has been committed, 223
the department shall notify the attorney general or the county 224
prosecutor, city attorney, village solicitor, or other chief 225
legal officer of the political subdivision in which the 226
violation has allegedly occurred. On receipt of the 227
notification, the attorney general, county prosecutor, city 228
attorney, village solicitor, or other chief legal officer shall 229
take action to enforce this section through injunctive relief, 230
restitution, or other equitable relief or criminal charge. 231

Sec. 5103.99. (A) Whoever violates section 5103.03 of the 232
Revised Code shall be fined not less than five hundred nor more 233
than one thousand dollars. 234

(B) Whoever violates section 5103.15, or 5103.16, or 235
~~5103.17~~ of the Revised Code shall be fined not less than five 236
hundred nor more than one thousand dollars or imprisoned not 237
more than six months, or both. 238

(C) Whoever negligently violates section 5103.17 of the 239
Revised Code is guilty of a felony of the fifth degree. The 240
court shall sentence the offender under Chapter 2929. of the 241
Revised Code, except that, notwithstanding the conventional 242
finer specified for felonies in section 2929.18 of the Revised 243
Code, the court shall impose a fine of not less than five 244
thousand and not more than fifteen thousand dollars. 245

Section 2. That existing sections 3107.011, 3107.99, 246
5103.03, 5103.17, and 5103.99 of the Revised Code are hereby 247
repealed. 248