**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑9‑75 SO AS TO ESTABLISH LIMITATIONS ON THE PERSONS AND ENTITIES AUTHORIZED TO CHARGE FEES AND OTHER COSTS FOR SERVICES RELATED TO THE PLACEMENT OF A CHILD FOR ADOPTION; TO AMEND SECTION 63‑9‑310, RELATING TO THE PROHIBITION OF COMPENSATING A PERSON OR CHILD PLACING AGENCY FOR GIVING A CONSENT OR RELINQUISHMENT OF A CHILD FOR PURPOSES OF AN ADOPTION, SO AS TO REQUIRE REIMBURSEMENT OF AUTHORIZED BIRTHMOTHER AND CHILD EXPENSES IN CERTAIN CIRCUMSTANCES, TO REQUIRE ITEMIZED FEES AND STATEMENTS OF SERVICES RENDERED, AND TO AUTHORIZE THE COURT TO ORDER THE REIMBURSEMENT OF UNREASONABLE FEES AND COSTS PAID.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Subarticle 1, Article 1, Chapter 9, Title 63 of the 1976 Code is amended by adding:

“Section 63‑9‑75. (A)(1) No person or entity other than a child‑placing agency, a guardian ad litem appointed pursuant to Section 63‑9‑720, a person certified by the department to take consents or relinquishments for the purpose of an adoption pursuant to Section 63‑9‑340, a person certified by the department to conduct investigations pursuant to Section 63‑9‑520, or an attorney engaged in the practice of law who represents a client in an adoption, may charge a birthmother or a prospective adoptive parent a fee or require other compensation or anything of value as part of providing any services to facilitate the placement of a child for adoption.

(2) Any fee or other compensation required by a person or entity identified in item (1) must be authorized pursuant to Section 63‑9‑310 (F), 63‑9‑740, or another provision of this chapter. A court may order reimbursement of any unreasonable fee or costs pursuant to Section 63‑9‑310(F).

(B)(1) In accordance with subsection (A), a person or entity other than a person or entity identified in subsection (A) that provides any services to facilitate the placement of a child for adoption or offers services to arrange or secure an adoption, is prohibited from charging a fee or requiring compensation or anything of value for providing the services to the birthparent or prospective adoptive parent.

(2) A person who violates a provision of item (1) is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both;

(b) for a second offense, must be fined at least one thousand dollars but not more than two thousand dollars or imprisoned not more than sixty days, or both; and

(c) for a third or subsequent offense, must be fined at least two thousand five hundred dollars but not more than five thousand dollars or imprisoned not more than six months, or both.”

SECTION 2. Section 63‑9‑310(F) of the 1976 Code is amended to read:

“(F) Under no circumstances may a child‑placing agency or any person receive a fee, compensation, or any other thing of value as consideration for giving a consent or relinquishment of a child for the purpose of adoption and no child‑placing agency or person may receive a child for payment of such fee, compensation, or any other thing of value.

However, costs may be assessed and payment made, subject to the court’s approval, for the following:

(1) reimbursements for necessary, actual medical, and reasonable living expenses incurred by the mother and child for a reasonable period of time; however, if a person seeking to adopt a child provides reimbursement for any necessary, actual medical, and reasonable living expenses incurred by the mother and child through payment to a child‑placing agency or attorney, and the birthparent chooses not to place the child for adoption with that person but places the child for adoption with another person, the person who adopts the child shall reimburse the person who did not adopt the child for the total amount of reimbursements paid to the child‑placing agency or attorney;

(2) the fee for obtaining investigations and reports as required by Section 63‑9‑520;

(3) the fee of the individuals required to take the consent or relinquishment, as required by Section 63‑9‑340(A);

(4) the fee of a guardian ad litem appointed pursuant to Section 63‑9‑720;

(5) reasonable attorney’s fees and costs for actual services rendered, provided the fees and costs for actual services rendered must be on an itemized statement;

(6) reasonable fees to child‑placing agencies, provided the fees and costs for actual services rendered must be on an itemized statement; and

(7) reasonable fees to sending agencies as defined in Section 63‑9‑2200(2)(b), the Interstate Compact on the Placement of Children.

The court may approve an adoption while not approving unreasonable fees and costs and may order a party, child‑placing agency, attorney, or other appropriate person to reimburse any unreasonable fees and costs paid.”

SECTION 3. This act takes effect upon approval by the Governor.

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