

HOUSE BILL NO. 115

INTRODUCED BY MCDONOUGH, RICE, D. BROWN

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE HOUSE

JANUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
	FIRST READING.
JANUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 18, 1989	PRINTING REPORT.
JANUARY 19, 1989	SECOND READING, DO PASS.
JANUARY 20, 1989	ENGROSSING REPORT.
JANUARY 21, 1989	THIRD READING, PASSED. AYES, 89; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 23, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 30, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 1, 1989	SECOND READING, CONCURRED IN.
FEBRUARY 3, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1989	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 115  
2 INTRODUCED BY McDonnell / K. J. DeBor  
3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CHARGE OF  
6 REASONABLE ADOPTION PROCESS FEES; TO PROVIDE FOR THE  
7 IMPOSITION OF A FINE ON A PERSON CONVICTED OF CHARGING OR  
8 ACCEPTING UNREASONABLE ADOPTION PROCESS FEES; TO REQUIRE A  
9 DETAILED REPORT CONCERNING THE ADOPTION PROCESS; AMENDING  
10 SECTION 40-8-109, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
11 DATE."  
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1. Adoption fees -- violation -- penalty. (1)**

15 Reasonable adoption fees may be charged by a licensed  
16 child-placing agency or the child's birth parent, birth  
17 parents, or guardian for the actual cost of services  
18 documented in the report required by [section 2] and  
19 approved by the court. The cost of services must relate to:

- 20 (a) a petition for adoption;  
21 (b) placement of a child;  
22 (c) medical care or services;  
23 (d) prenatal care;  
24 (e) foster care; or  
25 (f) other reasonable costs.

1 (2) A person who knowingly offers, gives, agrees to  
2 give, solicits, accepts, or agrees to accept from another  
3 person anything of value greater than that allowed under  
4 subsection (1) commits the offense of charging excessive  
5 adoption process fees.

6 (3) A person convicted of the offense of charging  
7 excessive adoption process fees may be fined an amount not  
8 to exceed \$1,000.

9 **Section 2. Report of agreements and disbursements. (1)**

10 Prior to a hearing under 40-8-109, the birth parents or  
11 their representatives shall file with the court a report of  
12 agreements and disbursements, and they shall serve the  
13 report on the department.

14 (2) The report must contain:

15 (a) all oral and written agreements between the  
16 parties that relate to the future conduct of a party with  
17 respect to the child. If an oral agreement is reported, the  
18 substance of the agreement must be contained in the report  
19 and a copy of the report must be served on each party to the  
20 oral agreement. Copies of all written agreements must be  
21 attached to the report.

22 (b) a full accounting of all disbursements of anything  
23 of value made or agreed to be made by or on behalf of the  
24 identified adoptive parents in connection with proceedings  
25 under this chapter. This accounting must include any

1 expenses related to:

- 2 (i) the birth of the child;
- 3 (ii) placement of the child with the identified
- 4 adoptive parents;
- 5 (iii) medical or hospital care received by the birth
- 6 parent or child prior to or after the child's birth; and
- 7 (iv) services relating to the petition for adoption or
- 8 the placement of the child that were received by or on
- 9 behalf of a birth parent or any other person.

10 (c) a statement by each person furnishing information

11 contained in the report, attesting to the correctness and

12 truthfulness of the information furnished by that person.

13 **Section 3.** Section 40-8-109, MCA, is amended to read:

14 **"40-8-109. Placement for adoption by parents.** (1) No

15 parent may make a placement of a child for adoption with an

16 individual who is not a stepparent or a member of the

17 child's extended family unless the parent files with the

18 district court for the county in which the prospective

19 adoptive parent or the parent making the placement resides:

- 20 (a) a notice of parental placement; and
- 21 (b) a relinquishment of parental rights to the
- 22 prospective adoptive parents executed voluntarily and in
- 23 accordance with 40-6-135(2) through (4).

24 (2) The notice of parental placement and the

25 relinquishment shall be filed prior to a parent's placement

1 of the child with an individual who intends to adopt the

2 child. The notice of parental placement shall contain the

3 following information:

4 (a) the name and address of each birth parent, if

5 known, and if unknown, the steps taken to ascertain the

6 whereabouts of the parent or parents;

7 (b) the name and address of each prospective adoptive

8 parent;

9 (c) the name and address or expected date and place of

10 birth of the child; and

11 (d) the name and address of counsel, guardian ad

12 litem, or other representative, if any, for each of the

13 parties in (a) through (c) of subsection (2).

14 (3) Upon receipt of a notice of parental placement and

15 a relinquishment, the court shall require that the

16 department examine the child and conduct interviews with the

17 birth parents and prospective adoptive parents and report to

18 the court within 30 days but not earlier than 5 days after

19 the birth of the child. The report must state whether the

20 following requirements for placement have been met:

21 (a) that the decision to place was voluntarily made by

22 the birth parents;

23 (b) that the department has no temporary authority to

24 investigate or provide protective services to the family

25 under 41-3-402;

1 (c) that the birth parents~~7-the-prospective-adoptive~~  
 2 ~~parents7-and-their-representatives-have-agreed-in-writing-to~~  
 3 ~~provide or their representatives have provided~~ the court  
 4 with ~~sworn-affidavits-containing-itemized-statements-of-all~~  
 5 ~~fees-charged-or-to-be-charged7-expenses-incurred--or--to--be~~  
 6 ~~incurred7--and--payments--received--or--to--be--received--in~~  
 7 ~~connection-with-the-proposed-adoptive-placement~~ the report  
 8 required by [section 2];

9 (d) that the prospective adoptive parents have been  
 10 provided a medical and social history of the child and birth  
 11 parents; and

12 (e) that the proposed placement is in the child's best  
 13 interest.

14 (4) Within 45 days of filing of the notice of parental  
 15 placement and the relinquishment, the court shall schedule a  
 16 hearing to consider the proposed placement.

17 (5) (a) At least 5 days' notice of the time and place  
 18 of the hearing must be given to the birth parents, the  
 19 prospective adoptive parents, any named guardian ad litem,  
 20 and the department.

21 (b) The hearing shall be closed to all persons except  
 22 those persons entitled to notice and their representatives  
 23 or counsel.

24 (6) If the court finds that all requirements for  
 25 placement have been met, the court may issue an order or

1 schedule a hearing for the purpose of terminating parental  
 2 rights and granting temporary custody to the prospective  
 3 adoptive parents. The prospective adoptive parents must file  
 4 their petition to adopt within 30 days of the order.

5 (7) If the court finds that all requirements for the  
 6 adoptive placement have not been met, the court may issue  
 7 any order appropriate to protect the child."

8 **Section 4. Codification instruction.** [Sections 1 and  
 9 2] are intended to be codified as an integral part of Title  
 10 40, chapter 8, part 1, and the provisions of Title 40,  
 11 chapter 8, part 1, apply to [sections 1 and 2].

12 **Section 5. Effective date.** [This act] is effective on  
 13 passage and approval.

-End-

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

## HOUSE BILL NO. 115

INTRODUCED BY MCDONOUGH, RICE, D. BROWN  
BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CHARGE OF  
REASONABLE ADOPTION PROCESS FEES; TO PROVIDE FOR THE  
IMPOSITION OF A FINE ON A PERSON CONVICTED OF CHARGING OR  
ACCEPTING UNREASONABLE ADOPTION PROCESS FEES; TO REQUIRE A  
DETAILED REPORT CONCERNING THE ADOPTION PROCESS; AND  
AMENDING SECTION 40-8-109, MCA; ~~AND PROVIDING--AN--IMMEDIATE~~  
~~EFFECTIVE-DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Adoption fees -- violation --  
penalty. (1) Reasonable adoption fees may be charged by a  
~~licensed-child-placing-agency-or~~ the child's birth parent,  
birth parents, or guardian for the actual cost of services  
documented in the report required by [section 2] and  
approved by the court. The cost of services must relate to:

- (a) a petition for adoption;
- (b) placement of a child;
- (c) medical care or services;
- (d) prenatal care;
- (e) foster care; or
- (f) other reasonable costs.

(2) A person who knowingly offers, gives, agrees to  
give, solicits, accepts, or agrees to accept from another  
person anything of value greater than that allowed under  
subsection (1) commits the offense of charging excessive  
adoption process fees.

(3) A person convicted of the offense of charging  
excessive adoption process fees may be fined an amount not  
to exceed \$1,000.

NEW SECTION. **Section 2.** Report of agreements and  
disbursements. (1) Prior to a hearing under 40-8-109, the  
birth parents or their representatives shall file with the  
court a report of agreements and disbursements, and they  
shall serve the report on the department.

(2) The report must contain:

(a) all oral and written agreements between the  
parties that relate to the future conduct of a party with  
respect to the child. If an oral agreement is reported, the  
substance of the agreement must be contained in the report  
and a copy of the report must be served on each party to the  
oral agreement. Copies of all written agreements must be  
attached to the report.

(b) a full accounting of all disbursements of anything  
of value made or agreed to be made by or on behalf of the  
identified adoptive parents in connection with proceedings  
under this chapter. This accounting must include any

**SECOND READING**

1 expenses related to:

2 (i) the birth of the child;

3 (ii) placement of the child with the identified

4 adoptive parents;

5 (iii) medical or hospital care received by the birth

6 parent or child prior to or after the child's birth; and

7 (iv) services relating to the petition for adoption or

8 the placement of the child that were received by or on

9 behalf of a birth parent or any other person.

10 (c) a statement by each person furnishing information

11 contained in the report, attesting to the correctness and

12 truthfulness of the information furnished by that person.

13 **Section 3.** Section 40-8-109, MCA, is amended to read:

14 **"40-8-109. Placement for adoption by parents.** (1) No

15 parent may make a placement of a child for adoption with an

16 individual who is not a stepparent or a member of the

17 child's extended family unless the parent files with the

18 district court for the county in which the prospective

19 adoptive parent or the parent making the placement resides:

20 (a) a notice of parental placement; and

21 (b) a relinquishment of parental rights to the

22 prospective adoptive parents executed voluntarily and in

23 accordance with 40-6-135(2) through (4).

24 (2) The notice of parental placement and the

25 relinquishment shall be filed prior to a parent's placement

1 of the child with an individual who intends to adopt the

2 child. The notice of parental placement shall contain the

3 following information:

4 (a) the name and address of each birth parent, if

5 known, and if unknown, the steps taken to ascertain the

6 whereabouts of the parent or parents;

7 (b) the name and address of each prospective adoptive

8 parent;

9 (c) the name and address or expected date and place of

10 birth of the child; and

11 (d) the name and address of counsel, guardian ad

12 litem, or other representative, if any, for each of the

13 parties in (a) through (c) of subsection (2).

14 (3) Upon receipt of a notice of parental placement and

15 a relinquishment, the court shall require that the

16 department examine the child and conduct interviews with the

17 birth parents and prospective adoptive parents and report to

18 the court within 30 days but not earlier than 5 days after

19 the birth of the child. The report must state whether the

20 following requirements for placement have been met:

21 (a) that the decision to place was voluntarily made by

22 the birth parents;

23 (b) that the department has no temporary authority to

24 investigate or provide protective services to the family

25 under 41-3-402;

(c) that the birth parents~~7-the-prospective-adoptive parents7-and-their-representatives-have-agreed-in-writing-to provide or their representatives have provided~~ the court with sworn affidavits~~-containing-itemized-statements-of-all fees-charged-or-to-be-charged7-expenses-incurred--or--to--be incurred7--and--payments--received--or--to--be--received--in connection-with-the-proposed-adoptive-placement~~ the report required by [section 2];

(d) that the prospective adoptive parents have been provided a medical and social history of the child and birth parents; and

(e) that the proposed placement is in the child's best interest.

(4) Within 45 days of filing of the notice of parental placement and the relinquishment, the court shall schedule a hearing to consider the proposed placement.

(5) (a) At least 5 days' notice of the time and place of the hearing must be given to the birth parents, the prospective adoptive parents, any named guardian ad litem, and the department.

(b) The hearing shall be closed to all persons except those persons entitled to notice and their representatives or counsel.

(6) If the court finds that all requirements for placement have been met, the court may issue an order or

schedule a hearing for the purpose of terminating parental rights and granting temporary custody to the prospective adoptive parents. The prospective adoptive parents must file their petition to adopt within 30 days of the order.

(7) If the court finds that all requirements for the adoptive placement have not been met, the court may issue any order appropriate to protect the child."

NEW SECTION. **Section 4.** Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 40, chapter 8, part 1, and the provisions of Title 40, chapter 8, part 1, apply to [sections 1 and 2].

~~NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.~~

-End-



1 HOUSE BILL NO. 115  
2 INTRODUCED BY MCDONOUGH, RICE, D. BROWN  
3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CHARGE OF  
6 REASONABLE ADOPTION PROCESS FEES; TO PROVIDE FOR THE  
7 IMPOSITION OF A FINE ON A PERSON CONVICTED OF CHARGING OR  
8 ACCEPTING UNREASONABLE ADOPTION PROCESS FEES; TO REQUIRE A  
9 DETAILED REPORT CONCERNING THE ADOPTION PROCESS; AND  
10 AMENDING SECTION 40-8-109, MCA; ~~AND PROVIDING--AN--IMMEDIATE~~  
11 ~~EFFECTIVE-DATE.~~"  
12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
14 NEW SECTION. Section 1. Adoption fees -- violation --  
15 penalty. (1) Reasonable adoption fees may be charged by a  
16 ~~licensed-child-placing-agency-or~~ the child's birth parent,  
17 birth parents, or guardian for the actual cost of services  
18 documented in the report required by [section 2] and  
19 approved by the court. The cost of services must relate to:  
20 (a) a petition for adoption;  
21 (b) placement of a child;  
22 (c) medical care or services;  
23 (d) prenatal care;  
24 (e) foster care; or  
25 (f) other reasonable costs.

1 (2) A person who knowingly offers, gives, agrees to  
2 give, solicits, accepts, or agrees to accept from another  
3 person anything of value greater than that allowed under  
4 subsection (1) commits the offense of charging excessive  
5 adoption process fees.  
6 (3) A person convicted of the offense of charging  
7 excessive adoption process fees may be fined an amount not  
8 to exceed \$1,000.  
9 NEW SECTION. Section 2. Report of agreements and  
10 disbursements. (1) Prior to a hearing under 40-8-109, the  
11 birth parents or their representatives shall file with the  
12 court a report of agreements and disbursements, and they  
13 shall serve the report on the department.  
14 (2) The report must contain:  
15 (a) all oral and written agreements between the  
16 parties that relate to the future conduct of a party with  
17 respect to the child. If an oral agreement is reported, the  
18 substance of the agreement must be contained in the report  
19 and a copy of the report must be served on each party to the  
20 oral agreement. Copies of all written agreements must be  
21 attached to the report.  
22 (b) a full accounting of all disbursements of anything  
23 of value made or agreed to be made by or on behalf of the  
24 identified adoptive parents in connection with proceedings  
25 under this chapter. This accounting must include any

1 expenses related to:

- 2 (i) the birth of the child;
- 3 (ii) placement of the child with the identified
- 4 adoptive parents;
- 5 (iii) medical or hospital care received by the birth
- 6 parent or child prior to or after the child's birth; and
- 7 (iv) services relating to the petition for adoption or
- 8 the placement of the child that were received by or on
- 9 behalf of a birth parent or any other person.

10 (c) a statement by each person furnishing information

11 contained in the report, attesting to the correctness and

12 truthfulness of the information furnished by that person.

13 **Section 3.** Section 40-8-109, MCA, is amended to read:

14 **"40-8-109. Placement for adoption by parents.** (1) No

15 parent may make a placement of a child for adoption with an

16 individual who is not a stepparent or a member of the

17 child's extended family unless the parent files with the

18 district court for the county in which the prospective

19 adoptive parent or the parent making the placement resides:

- 20 (a) a notice of parental placement; and
- 21 (b) a relinquishment of parental rights to the
- 22 prospective adoptive parents executed voluntarily and in
- 23 accordance with 40-6-135(2) through (4).

24 (2) The notice of parental placement and the

25 relinquishment shall be filed prior to a parent's placement

1 of the child with an individual who intends to adopt the

2 child. The notice of parental placement shall contain the

3 following information:

4 (a) the name and address of each birth parent, if

5 known, and if unknown, the steps taken to ascertain the

6 whereabouts of the parent or parents;

7 (b) the name and address of each prospective adoptive

8 parent;

9 (c) the name and address or expected date and place of

10 birth of the child; and

11 (d) the name and address of counsel, guardian ad

12 litem, or other representative, if any, for each of the

13 parties in (a) through (c) of subsection (2).

14 (3) Upon receipt of a notice of parental placement and

15 a relinquishment, the court shall require that the

16 department examine the child and conduct interviews with the

17 birth parents and prospective adoptive parents and report to

18 the court within 30 days but not earlier than 5 days after

19 the birth of the child. The report must state whether the

20 following requirements for placement have been met:

21 (a) that the decision to place was voluntarily made by

22 the birth parents;

23 (b) that the department has no temporary authority to

24 investigate or provide protective services to the family

25 under 41-3-402;

(c) that the birth parents~~, the prospective adoptive parents, and their representatives have agreed in writing to provide or their representatives have provided~~ the court with ~~sworn affidavits containing itemized statements of all fees charged or to be charged, expenses incurred or to be incurred, and payments received or to be received in connection with the proposed adoptive placement~~ the report required by [section 2];

(d) that the prospective adoptive parents have been provided a medical and social history of the child and birth parents; and

(e) that the proposed placement is in the child's best interest.

(4) Within 45 days of filing of the notice of parental placement and the relinquishment, the court shall schedule a hearing to consider the proposed placement.

(5) (a) At least 5 days' notice of the time and place of the hearing must be given to the birth parents, the prospective adoptive parents, any named guardian ad litem, and the department.

(b) The hearing shall be closed to all persons except those persons entitled to notice and their representatives or counsel.

(6) If the court finds that all requirements for placement have been met, the court may issue an order or

schedule a hearing for the purpose of terminating parental rights and granting temporary custody to the prospective adoptive parents. The prospective adoptive parents must file their petition to adopt within 30 days of the order.

(7) If the court finds that all requirements for the adoptive placement have not been met, the court may issue any order appropriate to protect the child."

NEW SECTION. **Section 4.** Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 40, chapter 8, part 1, and the provisions of Title 40, chapter 8, part 1, apply to [sections 1 and 2].

NEW SECTION. ~~Section 5.~~ ~~Effective date.~~ ~~{This act}~~ ~~is effective on passage and approval.~~

-End-

## HOUSE BILL NO. 115

INTRODUCED BY MCDONOUGH, RICE, D. BROWN

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE CHARGE OF REASONABLE ADOPTION PROCESS FEES; TO PROVIDE FOR THE IMPOSITION OF A FINE ON A PERSON CONVICTED OF CHARGING OR ACCEPTING UNREASONABLE ADOPTION PROCESS FEES; TO REQUIRE A DETAILED REPORT CONCERNING THE ADOPTION PROCESS; AND AMENDING SECTION 40-8-109, MCA,--AND-PROVIDING--AN--IMMEDIATE EFFECTIVE-DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Adoption fees -- violation -- penalty. (1) Reasonable adoption fees may be charged by a licensed-child-placing-agency-or the child's birth parent, birth parents, or guardian for the actual cost of services documented in the report required by [section 2] and approved by the court. The cost of services must relate to:

- (a) a petition for adoption;
- (b) placement of a child;
- (c) medical care or services;
- (d) prenatal care;
- (e) foster care; or
- (f) other reasonable costs.

(2) A person who knowingly offers, gives, agrees to give, solicits, accepts, or agrees to accept from another person anything of value greater than that allowed under subsection (1) commits the offense of charging excessive adoption process fees.

(3) A person convicted of the offense of charging excessive adoption process fees may be fined an amount not to exceed \$1,000.

NEW SECTION. Section 2. Report of agreements and disbursements. (1) Prior to a hearing under 40-8-109, the birth parents or their representatives shall file with the court a report of agreements and disbursements, and they shall serve the report on the department.

(2) The report must contain:

(a) all oral and written agreements between the parties that relate to the future conduct of a party with respect to the child. If an oral agreement is reported, the substance of the agreement must be contained in the report and a copy of the report must be served on each party to the oral agreement. Copies of all written agreements must be attached to the report.

(b) a full accounting of all disbursements of anything of value made or agreed to be made by or on behalf of the identified adoptive parents in connection with proceedings under this chapter. This accounting must include any

REFERENCE BILL

HB 115

1 expenses related to:

- 2 (i) the birth of the child;
- 3 (ii) placement of the child with the identified
- 4 adoptive parents;
- 5 (iii) medical or hospital care received by the birth
- 6 parent or child prior to or after the child's birth; and
- 7 (iv) services relating to the petition for adoption or
- 8 the placement of the child that were received by or on
- 9 behalf of a birth parent or any other person.
- 10 (c) a statement by each person furnishing information
- 11 contained in the report, attesting to the correctness and
- 12 truthfulness of the information furnished by that person.

13 **Section 3.** Section 40-8-109, MCA, is amended to read:

14 **"40-8-109. Placement for adoption by parents.** (1) No

15 parent may make a placement of a child for adoption with an

16 individual who is not a stepparent or a member of the

17 child's extended family unless the parent files with the

18 district court for the county in which the prospective

19 adoptive parent or the parent making the placement resides:

- 20 (a) a notice of parental placement; and
- 21 (b) a relinquishment of parental rights to the
- 22 prospective adoptive parents executed voluntarily and in
- 23 accordance with 40-6-135(2) through (4).

24 (2) The notice of parental placement and the

25 relinquishment shall be filed prior to a parent's placement

1 of the child with an individual who intends to adopt the

2 child. The notice of parental placement shall contain the

3 following information:

- 4 (a) the name and address of each birth parent, if
- 5 known, and if unknown, the steps taken to ascertain the
- 6 whereabouts of the parent or parents;
- 7 (b) the name and address of each prospective adoptive
- 8 parent;
- 9 (c) the name and address or expected date and place of
- 10 birth of the child; and
- 11 (d) the name and address of counsel, guardian ad
- 12 litem, or other representative, if any, for each of the
- 13 parties in (a) through (c) of subsection (2).

14 (3) Upon receipt of a notice of parental placement and

15 a relinquishment, the court shall require that the

16 department examine the child and conduct interviews with the

17 birth parents and prospective adoptive parents and report to

18 the court within 30 days but not earlier than 5 days after

19 the birth of the child. The report must state whether the

20 following requirements for placement have been met:

- 21 (a) that the decision to place was voluntarily made by
- 22 the birth parents;
- 23 (b) that the department has no temporary authority to
- 24 investigate or provide protective services to the family
- 25 under 41-3-402;

1 (c) that the birth parents, ~~the prospective adoptive~~  
 2 ~~parents, and their representatives have agreed in writing to~~  
 3 ~~provide or their representatives have provided~~ the court  
 4 ~~with sworn affidavits containing itemized statements of all~~  
 5 ~~fees charged or to be charged, expenses incurred or to be~~  
 6 ~~incurred, and payments received or to be received in~~  
 7 ~~connection with the proposed adoptive placement~~ the report  
 8 required by [section 2];

9 (d) that the prospective adoptive parents have been  
 10 provided a medical and social history of the child and birth  
 11 parents; and

12 (e) that the proposed placement is in the child's best  
 13 interest.

14 (4) Within 45 days of filing of the notice of parental  
 15 placement and the relinquishment, the court shall schedule a  
 16 hearing to consider the proposed placement.

17 (5) (a) At least 5 days' notice of the time and place  
 18 of the hearing must be given to the birth parents, the  
 19 prospective adoptive parents, any named guardian ad litem,  
 20 and the department.

21 (b) The hearing shall be closed to all persons except  
 22 those persons entitled to notice and their representatives  
 23 or counsel.

24 (6) If the court finds that all requirements for  
 25 placement have been met, the court may issue an order or

1 schedule a hearing for the purpose of terminating parental  
 2 rights and granting temporary custody to the prospective  
 3 adoptive parents. The prospective adoptive parents must file  
 4 their petition to adopt within 30 days of the order.

5 (7) If the court finds that all requirements for the  
 6 adoptive placement have not been met, the court may issue  
 7 any order appropriate to protect the child."

8 NEW SECTION. Section 4. Codification instruction.  
 9 [Sections 1 and 2] are intended to be codified as an  
 10 integral part of Title 40, chapter 8, part 1, and the  
 11 provisions of Title 40, chapter 8, part 1, apply to  
 12 [sections 1 and 2].

13 NEW SECTION. Section 5. ~~Effective date. [This act]~~  
 14 ~~is effective on passage and approval.~~

-End-