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# Legislative Briefs

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## WISCONSIN ADOPTION LAWS REVISED

1997 Wisconsin Act 104, passed by the legislature and signed by Governor Tommy Thompson to take effect on April 29, 1998, made a number of changes in Wisconsin's adoption laws. It was introduced as 1997 Assembly Bill 600 and originated in the Joint Legislative Council's Special Committee on Adoption Laws.

### PAYMENTS TO BIRTH PARENTS BY ADOPTIVE PARENTS

Act 104 enumerates the payments adoptive parents may make to or on the behalf of a child or birth parent. These payments may cover preadoptive and post-adoptive counseling, maternity clothes, local transportation, services by a licensed child welfare agency, medical and hospital care related to the pregnancy and birth, legal and other adoption services, living expenses not to exceed \$1,000 if necessary to protect the health and welfare of the birth mother or child, adoption investigation, foster care, birthing classes, a gift not to exceed \$50 and, if the birth parent is in another state, any expenses permitted under the laws of that state.

Payments may not exceed actual costs of services and must be made to service providers or to reimburse birth parents. The court is required to review all payments. If they appear to be coercive, the court may dismiss the petition for adoption, unless the parties agree to delete the coercive elements. Payments that are not permissible may be punishable by a fine of up to \$10,000 or imprisonment of up to five years, or both.

### RELEASE OF INFORMATION

Under previous law, adoption agencies may not disclose identifying information about birth parents or adoptive parents unless ordered to do so by a court or under certain statutory exceptions. Act 104 permits agencies to release identifying information about birth parents to adoptive parents and vice versa only when written, notarized authorization is on file. The authorization may be revoked at any time. Agencies may not contact parents to ask if they wish to file an authorization, but the court must notify the birth parents about the authorization process when parental rights are terminated. An agency that releases information in good faith is immune from liability.

### ADVERTISING

Act 104 prohibits certain advertising for adoptions through any public medium that originates in this state, including newspapers, periodicals, telephone books, outdoor advertising, radio and television. Prohibited acts include advertising to find a child, to place a child or to find a home or assist in an adoption placement. The prohibition does not apply to attorneys advertising adoption services, the Department of Health and Family Services, county agen-

cies, licensed child welfare agencies, the State Adoption Information Exchange, the State Adoption Center or persons who have received a favorable home study or who are trying to place their own child. Violations of the prohibition may result in a fine of up to \$10,000 or imprisonment of up to nine months, or both.

## **WHO MAY BE ADOPTED**

Act 104 states any Wisconsin child may be adopted in any of the following instances:

- Both parents are deceased.
- Parental rights of all living parents have been terminated.
- A stepparent files a petition when the other parent is deceased or has terminated parental rights.
- The child is from a foreign country, but there must be proof that the child is freed for adoption under the laws of that country.
- The child has been adopted in another jurisdiction and is being readopted in Wisconsin.

## **ADOPTION BY RELATIVES**

In Wisconsin, a parent having custody may place a child for adoption in the home of a relative without a court order. Act 104 specifies that the person with whom the child is placed must be a relative of the child. It also gives relatives by adoption the same rights to adopt as a blood relative.

## **OTHER PROVISIONS**

Act 104 makes two changes affecting foster care. It allows placement of a child more than 60 miles from home if it is determined to be in the child's best interests, is voluntary, and is done to facilitate adoption. In addition, when an adoption by a licensed foster parent is pending, a child may be removed from a foster or group home without the required hearing if the parties to the hearing agree in writing to waive their objections to the removal.

The act requires the Department of Public Instruction to aid instruction about adoption in grades K-12 by providing materials on adoption to public school staff annually and upon request. School districts that have school age parents programs must provide instruction on adoption and adoption services.

Finally, the act shortens certain time limits on holding adoption hearings and petitioning for a rehearing of a termination of parental rights or paternity order.

## **FOR MORE INFORMATION**

For copies of 1997 Wisconsin Act 104, contact the Legislative Reference Bureau at (608) 266-0342. For more detailed information about adoption programs, contact Karen Oghalai, adoption planner for the Department of Health and Family Services, at (608) 266-0690.