

**Introduced by Senator Alpert**

January 8, 1997

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An act to amend Section 273 of the Penal Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 122, as introduced, Alpert. Adoption.

(1) Existing law provides that a person or agency that pays or offers to pay money or anything of value to a parent for the placement for adoption, consent to adoption, or cooperation in the completion of an adoption, of his or her child, is guilty of a misdemeanor.

This bill instead would provide that the above offense is punishable as a misdemeanor or a felony.

(2) Existing law makes it a misdemeanor for a parent to obtain certain medical, hospital, or living expenses in connection with the adoption of a child, if the parent intends to not complete the adoption or to withhold consent to the adoption.

This bill additionally would provide that obtaining more than \$400 of these expenses, with the requisite intent, is punishable as a misdemeanor or a felony.

(3) Existing law also makes it a misdemeanor for a parent to obtain the expenses referred to in (2) above, in an amount exceeding their reasonable cost, from 2 or more prospective adopting families or persons, and to fail to make specified disclosures to those families or persons.

This bill would eliminate the requirement that the expenses exceed reasonable costs and would make the offense punishable as a misdemeanor or a felony.

(4) The bill also would broaden the definition of the expenses referred to in (2) and (3) above, make the provisions in those paragraphs applicable to any person, and impose enhanced penalties on repeat offenders. Because the bill would expand the scope of existing crimes, it would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 273 of the Penal Code is  
2 amended to read:

3 273. (a) ~~It is a misdemeanor for any~~ Any person or  
4 agency ~~to pay, that pays, or offer offers~~ to pay, money or  
5 anything of value to a parent for the placement for  
6 adoption, for the consent to an adoption, or for  
7 cooperation in the completion of an adoption of his or her  
8 child, *shall be punished by imprisonment in a county jail*  
9 *for not more than one year, or by a fine of not more than*  
10 *two thousand five hundred dollars (\$2,500), or by both*  
11 *that fine and imprisonment, or by imprisonment in the*  
12 *state prison.*

13 (b) This section ~~shall not make it unlawful to pay the~~  
14 *does not prohibit payment of the birth mother's*  
15 *maternity-connected medical or hospital and necessary*  
16 *living expenses of the mother preceding and during*  
17 *confinement attorney's fees, medical bills and expenses,*  
18 *counseling fees, and living expenses in accordance with*  
19 *the provisions of Division 13 (commencing with Section*  
20 *8500) of the Family Code, or as an act of charity, as long*



1 ~~as the payment~~ *that* is not contingent upon placement of  
2 the child for adoption, consent to the adoption, or  
3 cooperation in the completion of the adoption.

4 ~~(c) It is a misdemeanor punishable by imprisonment~~  
5 ~~in a county jail not exceeding one year or by a fine not~~  
6 ~~exceeding two thousand five hundred dollars (\$2,500) for~~  
7 ~~any parent to obtain~~ *Any person who obtains* the financial  
8 benefits set forth in subdivision (b) with the intent to  
9 receive those financial benefits where there is an intent  
10 to do either of the following:

11 ~~(1) Not fail to complete the adoption-~~

12 ~~(2) Not, or to withhold consent to the adoption-~~

13 ~~(d) It is a misdemeanor punishable, shall be punished~~  
14 by imprisonment in a county jail *for not exceeding more*  
15 *than* one year; or by a fine *of not exceeding more than*  
16 two thousand five hundred dollars (\$2,500) ~~for any parent~~  
17 ~~to obtain the financial benefits set forth in subdivision~~  
18 ~~(b), or by both that fine and imprisonment. If the amount~~  
19 ~~obtained exceeds four hundred dollars (\$400), the person~~  
20 ~~shall be punished by imprisonment in a county jail for not~~  
21 ~~more than one year; or by a fine of not more than two~~  
22 ~~thousand five hundred dollars (\$2,500), or by both that~~  
23 ~~fine and imprisonment, or by imprisonment in the state~~  
24 ~~prison.~~

25 ~~(d) Any person who obtains from two or more~~  
26 ~~prospective adopting families or persons, if either parent~~  
27 ~~does both of the following:~~

28 ~~(1) Knowingly fails to disclose to those adoptive~~  
29 ~~families or persons that there are other prospective~~  
30 ~~adopting families or persons interested in adopting the~~  
31 ~~child, with knowledge that there is an obligation to~~  
32 ~~disclose that information.~~

33 ~~(2) Knowingly accepts the financial benefits set forth~~  
34 ~~in subdivision (b) if the aggregate amount exceeds the~~  
35 ~~reasonable maternity-connected medical or hospital and~~  
36 ~~necessary living expenses of the mother preceding and~~  
37 ~~during the pregnancy the financial benefits set forth in~~  
38 ~~subdivision (b), without making full disclosure to one or~~  
39 ~~more of the adoptive families or persons that those~~  
40 ~~benefits have been so obtained, shall be punished by~~



1 *imprisonment in a county jail for not more than one year,*  
2 *or by a fine of not more than two thousand five hundred*  
3 *dollars (\$2,500), or by both that fine and imprisonment,*  
4 *or by imprisonment in the state prison.*

5 (e) Any person who ~~has been~~ is convicted ~~previously~~  
6 ~~of an offense described in~~ of a violation of subdivision (c)  
7 or (d), who is ~~separately tried and convicted of a~~  
8 ~~subsequent violation of subdivision (e) or (d), is guilty of~~  
9 ~~a public offense punishable previously has been~~  
10 *convicted of a violation of either subdivision, shall be*  
11 *punished by imprisonment in a county jail for not more*  
12 *than one year, or by a fine of not more than two thousand*  
13 *five hundred dollars (\$2,500), or by both that fine and*  
14 *imprisonment, or by imprisonment in the state prison for*  
15 *two, three, or four years.*

16 SEC. 2. No reimbursement is required by this act  
17 pursuant to Section 6 of Article XIII B of the California  
18 Constitution because the only costs that may be incurred  
19 by a local agency or school district will be incurred  
20 because this act creates a new crime or infraction,  
21 eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section  
23 17556 of the Government Code, or changes the definition  
24 of a crime within the meaning of Section 6 of Article  
25 XIII B of the California Constitution.

26 Notwithstanding Section 17580 of the Government  
27 Code, unless otherwise specified, the provisions of this act  
28 shall become operative on the same date that the act  
29 takes effect pursuant to the California Constitution.

