

AMENDED IN ASSEMBLY MAY 28, 1997

AMENDED IN SENATE MAY 1, 1997

AMENDED IN SENATE APRIL 1, 1997

**SENATE BILL**

**No. 122**

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**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 amended, Alpert. Adoption.

(1) Existing law ~~provides that a~~ *makes it a misdemeanor for any person or agency that pays to pay or offers offer 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 ~~delete the reference to parents and would add to that provision persons who receive money or anything of value for those purposes~~ *make it a misdemeanor for any person or agency to pay, offer to pay, or to receive money or anything of value for the placement for adoption or for the consent to adoption of a child. The bill would exempt from this prohibition any fee paid for adoption services provided by the State Department of Social Services, a licensed adoption agency, or specified adoption services providers.* Because the bill would increase the scope of a crime, the bill would impose a state-mandated local program.

(2) 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 person or agency  
4 to pay, offer to pay, or to receive money or anything of  
5 value for the placement for adoption, ~~for the consent to~~  
6 ~~an adoption, or for cooperation in the completion of an~~  
7 ~~adoption of a child.~~ *or for the consent to an adoption of*  
8 *a child. This subdivision shall not apply to any fee paid for*  
9 *adoption services provided by the State Department of*  
10 *Social Services, a licensed adoption agency, or adoption*  
11 *services providers, as defined in Section 8502 of the*  
12 *Family Code.*

13 (b) This section shall not make it unlawful to pay or  
14 receive the maternity-connected medical or hospital and  
15 necessary living expenses of the mother preceding and  
16 during confinement as an act of charity, as long as the  
17 payment is not contingent upon placement of the child  
18 for adoption, consent to the adoption, or cooperation in  
19 the completion of the adoption.

20 (c) It is a misdemeanor punishable by imprisonment  
21 in a county jail not exceeding one year or by a fine not  
22 exceeding two thousand five hundred dollars (\$2,500) for  
23 any parent to obtain the financial benefits set forth in  
24 subdivision (b) with the intent to receive those financial  
25 benefits where there is an intent to do either of the  
26 following:

27 (1) Not complete the adoption.

28 (2) Not consent to the adoption.



1 (d) It is a misdemeanor punishable by imprisonment  
2 in a county jail not exceeding one year or by a fine not  
3 exceeding two thousand five hundred dollars (\$2,500) for  
4 any parent to obtain the financial benefits set forth in  
5 subdivision (b) from two or more prospective adopting  
6 families or persons, if either parent does both of the  
7 following:

8 (1) Knowingly fails to disclose to those families or  
9 persons that there are other prospective adopting  
10 families or persons interested in adopting the child, with  
11 knowledge that there is an obligation to disclose that  
12 information.

13 (2) Knowingly accepts the financial benefits set forth  
14 in subdivision (b) if the aggregate amount exceeds the  
15 reasonable maternity-connected medical or hospital and  
16 necessary living expenses of the mother preceding and  
17 during the pregnancy.

18 (e) Any person who has been convicted previously of  
19 an offense described in subdivision (c) or (d), who is  
20 separately tried and convicted of a subsequent violation  
21 of subdivision (c) or (d), is guilty of a public offense  
22 punishable by imprisonment in a county jail or in the state  
23 prison.

24 (f) Nothing in this section shall be construed to  
25 prohibit the prosecution of any person for a misdemeanor  
26 or felony pursuant to Section 487 or any other provision  
27 of law in lieu of prosecution pursuant to this section.

28 SEC. 2. The Legislature finds and declares that the  
29 addition of subdivision (f) to Section 273 of the Penal  
30 Code, as made by Section 1 of this act, does not constitute  
31 a change in, but is declaratory of, existing law.

32 SEC. 3. No reimbursement is required by this act  
33 pursuant to Section 6 of Article XIII B of the California  
34 Constitution because the only costs that may be incurred  
35 by a local agency or school district will be incurred  
36 because this act creates a new crime or infraction,  
37 eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section  
39 17556 of the Government Code, or changes the definition



1 of a crime within the meaning of Section 6 of Article  
2 XIII B of the California Constitution.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

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