

104TH CONGRESS  
2D SESSION

# H. R. 3983

To amend title 18, United States Code, to prohibit false statements in the offering of adoption services and to prohibit certain persons from soliciting or receiving compensation for placing a child for adoption, and to express the sense of the Congress that there should be civil remedies for victims of fraudulent adoption practices.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. GUTIERREZ introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to prohibit false statements in the offering of adoption services and to prohibit certain persons from soliciting or receiving compensation for placing a child for adoption, and to express the sense of the Congress that there should be civil remedies for victims of fraudulent adoption practices.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti-Fraudulent Inter-  
5 country Adoption Practices Act of 1996”.

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1 **SEC. 2. CRIMINAL PROVISIONS.**

2 (a) IN GENERAL.—Title 18 of the United States  
3 Code is amended by redesignating chapter 2 as chapter  
4 2B and inserting before such chapter the following:

5 **“CHAPTER 2A—ADOPTION SERVICES**

**“Sec.**

“21. False pretenses in connection with the offering of adoption services.

“22. Placing a child for adoption for compensation.

“23. Definitions.

“24. Effect on State law and regulation.

6 **“CHAPTER 2A—ADOPTION SERVICES**

7 **“§ 21. False pretenses in connection with the offering**  
8 **of adoption services**

9 “(a) It shall be unlawful for any person, offering to  
10 perform any act or render any service in connection with  
11 the placement of a child for adoption, to knowingly and  
12 willfully falsify, conceal, or cover up by any trick, scheme,  
13 or device a material fact, or make any false, fictitious, or  
14 fraudulent statements or representations, or make or use  
15 any false writing or document knowing the same to con-  
16 tain any false, fictitious, or fraudulent statement or entry,  
17 in connection with the performance of such act or the ren-  
18 dition of such service or the offer to do so.

19 “(b) The material facts, documents, and representa-  
20 tions referred to in subsection (a) include—

21 “(1) information about the political or legal  
22 conditions and circumstances prevalent and antici-  
23 pated in any country in which the legal proceedings

1 of the adoption are to take place and which may af-  
2 fect the adoption process, including, but not limited  
3 to, information regarding how such conditions and  
4 circumstances may affect the time period in which  
5 the adoption process is to be completed; and

6 “(2) information released by the United States  
7 Department of State in the form of travel notices  
8 and other advisories regarding the adoption process  
9 in any country in which the legal proceedings of the  
10 adoption are to take place.

11 “(c) Any person who violates this section shall be im-  
12 prisoned not more than 5 years, fined not more than  
13 \$10,000, or both.

14 **“§ 22. Placing a child for adoption for compensation**

15 “(a) It shall be unlawful for any person to knowingly  
16 and willfully solicit or receive money or any thing of value,  
17 or the promise thereof, for placing or arranging for the  
18 placement of any child for adoption under circumstances  
19 that would require or result in such child being trans-  
20 ported in interstate or foreign commerce.

21 “(b) Any person who violates this section shall be im-  
22 prisoned not more than 5 years, fined not more than  
23 \$10,000, or both.

24 “(c) This section shall not apply to any person who—

1           “(1) solicits or receives money or any thing of  
2 value as the bona fide agent of a child care or adop-  
3 tion agency, public or private, which is authorized or  
4 licensed by a State to place children for adoption, in  
5 exchange for services rendered by the agency;

6           “(2) solicits or receives reasonable services ren-  
7 dered in connection with the consultation regarding,  
8 and the preparation and execution of documents nec-  
9 essary to accomplish, the legal placement of a child  
10 for adoption; or

11           “(3) solicits or receives reasonable fees solely in  
12 connection with the consultation regarding, and the  
13 rendition of, professional medical services related to  
14 the prenatal care of a woman or the delivery, exam-  
15 ination, or treatment of a child for adoption.

16 **“§ 23. Definitions**

17           “As used in this chapter:

18           “(1) The term ‘child’ has the meaning given  
19 such term in section 101(b)(1)(F) of the Immigra-  
20 tion and Nationality Act.

21           “(2) The term ‘State’ includes the District of  
22 Columbia, the Commonwealth of Puerto Rico, the  
23 Commonwealth of the Northern Mariana Islands,  
24 the United States Virgin Islands, Guam, American

1 Samoa, and the Trust Territory of the Pacific Is-  
2 lands.

3 **“§ 24. Effect on State law and regulation**

4 “Nothing in this chapter shall be construed to limit  
5 or otherwise affect the applicability or validity of any State  
6 law or regulation that may govern the placement of chil-  
7 dren in a home for adoption.”.

8 (b) CLERICAL AMENDMENT.—The table of chapters  
9 for part I of title 18, United States Code, is amended by  
10 striking the item relating to chapter 2 and inserting the  
11 following:

“2A. Adoption practices ..... 21  
“2B. Aircraft and motor vehicles ..... 31.”.

12 **SEC. 3. SENSE OF THE CONGRESS THAT THERE SHOULD BE**  
13 **CIVIL REMEDIES FOR VICTIMS OF FRAUDU-**  
14 **LENT ADOPTION PRACTICES.**

15 (a) DEFRAUDING PROSPECTIVE ADOPTIVE PARENTS;  
16 CIVIL REMEDIES.—It is the sense of the Congress that—

17 (1) any person who, having accepted money or  
18 anything of value in connection with an offer of, or  
19 performance of, any service or act relating to the  
20 placement of a child for adoption, has committed a  
21 violation of the provisions of chapter 2A of title 18,  
22 United States Code, should be liable for damages to  
23 any individual who has paid money or anything of  
24 value for the performance of such service or act;

1           (2) the district courts of the United States  
2           should have jurisdiction to hear such cases regard-  
3           less of the amount in controversy, and the plaintiff  
4           in such actions should be entitled to recover any  
5           money or thing of value (or the monetary equivalent  
6           thereof) which was provided to the defendant in ex-  
7           change for the offer or promise to perform the act  
8           or service in question, in addition to punitive dam-  
9           ages, costs of suit, and attorney's fees, where appro-  
10          priate; and

11          (3) the court may further impose such other  
12          penalties that may be provided for by State or Fed-  
13          eral law.

14          (b) DEFRAUDING BIRTH MOTHER; CIVIL REM-  
15          EDIES.—It is further the sense of the Congress that—

16          (1) any person who, having agreed to pay the  
17          expenses of a pregnant woman in return for the giv-  
18          ing up of the child for adoption, commits an act of  
19          fraud in either stating the agreement or in perform-  
20          ing it, should, if such woman traveled in interstate  
21          or foreign commerce because of the agreement, be  
22          liable to such woman for damages incurred as a re-  
23          sult of the failure to perform any act or service cov-  
24          ered by such agreement;

1           (2) the district courts of the United States  
2           should have jurisdiction to hear such cases regard-  
3           less of the amount in controversy, and the plaintiff  
4           in such actions should be entitled to recover such  
5           consequential and punitive damages, plus costs of  
6           suit and attorney's fees, as may be appropriate; and

7           (3) the court may further impose such other  
8           penalties that may be provided for by State or Fed-  
9           eral law.

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