

As Referred by the House Rules and Reference Committee

**130th General Assembly
Regular Session
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H. B. No. 307

Representative Buchy

Cosponsor: Representative Pelanda

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A B I L L

To amend sections 3107.055, 3107.062, 3107.064, 1
3107.07, 3107.16, 5103.17, 5747.37, and 5747.98 2
and to enact section 3107.067 of the Revised Code 3
to require that certain pre-birth adoption 4
notifications be sent to each putative father; to 5
reduce the time within which a putative father 6
must register with the putative father registry; 7
to reduce the period of time to appeal an adoption 8
decree; to permit a person to advertise that the 9
person will adopt children; to define for purposes 10
of an adoption "living expenses" of a birth mother 11
and to specify how they must be paid; and to 12
increase the adoption income tax credit. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3107.055, 3107.062, 3107.064, 14
3107.07, 3107.16, 5103.17, 5747.37, and 5747.98 be amended and 15
section 3107.067 of the Revised Code be enacted to read as 16
follows: 17

Sec. 3107.055. (A) (1) Notwithstanding section 3107.01 of the 18
Revised Code, as used in this section, "agency" does not include a 19

public children services agency. 20

(2) As used in this section, "living expenses" means any of 21
the following expenses incurred by a birth mother: 22

(a) Rental or mortgage payments; 23

(b) Utility payments; 24

(c) Payments for food, household goods, personal care items, 25
and the costs of transportation to work or school. 26

(B) An agency or attorney, whichever arranges a minor's 27
adoption, shall file with the court a preliminary estimate 28
accounting not later than the time the adoption petition for the 29
minor is filed with the court. The agency or attorney, whichever 30
arranges the adoption, also shall file a final accounting with the 31
court before a final decree of adoption is issued or an 32
interlocutory order of adoption is finalized for the minor. The 33
agency or attorney shall complete and file accountings in a manner 34
acceptable to the court. 35

An accounting shall specify all disbursements of anything of 36
value the petitioner, a person on the petitioner's behalf, and the 37
agency or attorney made and has agreed to make in connection with 38
the minor's permanent surrender under division (B) of section 39
5103.15 of the Revised Code, placement under section 5103.16 of 40
the Revised Code, and adoption under this chapter. The agency or 41
attorney shall include in an accounting an itemization of each 42
expense listed in division (C) of this section. The itemization of 43
the expenses specified in divisions (C)(3) and (4) of this section 44
shall show the amount the agency or attorney charged or is going 45
to charge for the services and the actual cost to the agency or 46
attorney of providing the services. An accounting shall indicate 47
whether any expenses listed in division (C) of this section do not 48
apply to the adoption proceeding for which the accounting is 49
filed. 50

The agency or attorney shall include with a preliminary estimate accounting and a final accounting a written statement signed by the petitioner that the petitioner has reviewed the accounting and attests to its accuracy.

(C) No petitioner, person acting on a petitioner's behalf, or agency or attorney shall make or agree to make any disbursements in connection with the minor's permanent surrender, placement, or adoption other than for the following:

(1) Physician expenses incurred on behalf of the birth mother or minor in connection with prenatal care, delivery, and confinement prior to or following the minor's birth;

(2) Hospital or other medical facility expenses incurred on behalf of the birth mother or minor in connection with the minor's birth;

(3) Expenses charged by the attorney arranging the adoption for providing legal services in connection with the placement and adoption, including expenses incurred by the attorney pursuant to sections 3107.031, 3107.032, 3107.081, 3107.082, 3107.09, 3107.101, and 3107.12 of the Revised Code;

(4) Expenses charged by the agency arranging the adoption for providing services in connection with the permanent surrender and adoption, including the agency's application fee and the expenses incurred by the agency pursuant to sections 3107.031, 3107.032, 3107.09, 3107.101, 3107.12, 5103.151, and 5103.152 of the Revised Code;

(5) Temporary costs of routine maintenance and medical care for a minor required under section 5103.16 of the Revised Code if the person seeking to adopt the minor refuses to accept placement of the minor;

(6) Guardian ad litem fees incurred on behalf of the minor in any court proceedings;

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| (7) Foster care expenses incurred in connection with any temporary care and maintenance of the minor; | 82 83 |
| (8) Court expenses incurred in connection with the minor's permanent surrender, placement, and adoption; | 84 85 |
| (9) Living expenses not exceeding three thousand dollars for the birth mother that are incurred during pregnancy through the sixtieth day after the date the minor is born and paid by the petitioner to the birth mother through the attorney or agency arranging the minor's adoption. | 86 87 88 89 90 |
| (D) If a court determines from an accounting that an amount that is going to be disbursed for an expense listed in division (C) of this section is unreasonable, the court may order a reduction in the amount to be disbursed. If a court determines from an accounting that an unreasonable amount was disbursed for an expense listed in division (C) of this section, the court may order the person who received the disbursement to refund to the person who made the disbursement an amount the court orders. | 91 92 93 94 95 96 97 98 |
| If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section is going to be made, the court may issue an injunction prohibiting the disbursement. If a court determines from an accounting that a disbursement for an expense not permitted by division (C) of this section was made, the court may order the person who received the disbursement to return it to the person who made the disbursement. | 99 100 101 102 103 104 105 |
| If a court determines that a final accounting does not completely report all the disbursements that are going to be made or have been made in connection with the minor's permanent surrender, placement, and adoption, the court shall order the agency or attorney to file with the court an accounting that completely reports all such disbursements. | 106 107 108 109 110 111 |
| The agency or attorney shall file the final accounting with | 112 |

the court not later than ten days prior to the date scheduled for 113
the final hearing on the adoption. The court may not issue a final 114
decree of adoption or finalize an interlocutory order of adoption 115
of a minor until at least ten days after the agency or attorney 116
files the final accounting. 117

(E) An attorney or agency that makes payments for services or 118
items that qualify as living expenses under division (C)(9) of 119
this section shall make a reasonable and good faith effort to make 120
the payments directly to the entity providing the service or item. 121

(F) This section does not apply to an adoption by a 122
stepparent whose spouse is a biological or adoptive parent of the 123
minor. 124

Sec. 3107.062. The department of job and family services 125
shall establish a putative father registry. To register, a 126
putative father must complete a registration form prescribed under 127
section 3107.065 of the Revised Code and submit it to the 128
department. The registration form shall include the putative 129
father's name; the name of the mother of the person he claims as 130
his child; and the address or telephone number at which he wishes 131
to receive, pursuant to section 3107.11 of the Revised Code, 132
notice of any petition that may be filed to adopt a minor he 133
claims as his child. 134

A putative father may register at any time. For the purpose 135
of preserving the requirement of his consent to an adoption, a 136
putative father shall register before or not later than ~~thirty~~ 137
seven days after the birth of the child. No fee shall be charged 138
for registration. 139

On receipt of a completed registration form, the department 140
shall indicate on the form the date of receipt and file it in the 141
putative father registry. The department shall maintain 142
registration forms in a manner that enables it to access a 143

registration form using either the name of the putative father or 144
of the mother. 145

Sec. 3107.064. (A) Except as provided in division (B) of this 146
section, a court shall not issue a final decree of adoption or 147
finalize an interlocutory order of adoption unless the mother 148
placing the minor for adoption or the agency or attorney arranging 149
the adoption files with the court a certified document provided by 150
the department of job and family services under section 3107.063 151
of the Revised Code. The court shall not accept the document 152
unless the date the department places on the document pursuant to 153
that section is ~~thirty-one~~ eight or more days after the date of 154
the minor's birth. 155

(B) The document described in division (A) of this section is 156
not required if any of the following apply: 157

(1) The mother was married at the time the minor was 158
conceived or born; 159

(2) The parent placing the minor for adoption previously 160
adopted the minor; 161

(3) Prior to the date a petition to adopt the minor is filed, 162
a man has been determined to have a parent and child relationship 163
with the minor by a court proceeding pursuant to sections 3111.01 164
to 3111.18 of the Revised Code, a court proceeding in another 165
state, an administrative agency proceeding pursuant to sections 166
3111.38 to 3111.54 of the Revised Code, or an administrative 167
agency proceeding in another state; 168

(4) The minor's father acknowledged paternity of the minor 169
and that acknowledgment has become final pursuant to section 170
2151.232, 3111.25, or 3111.821 of the Revised Code; 171

(5) A public children services agency has permanent custody 172
of the minor pursuant to Chapter 2151. or division (B) of section 173

5103.15 of the Revised Code after both parents lost or surrendered 174
parental rights, privileges, and responsibilities over the minor. 175

Sec. 3107.067. (A) A birth mother who decides, during the 176
pregnancy, to place the minor up for adoption, or an attorney or 177
other representative working on the birth mother's behalf, shall 178
give written notice of the decision to each person who the birth 179
mother identifies as the putative father of the minor. The notice 180
shall be made by certified mail prior to the minor's birth. 181

(B) A putative father shall have thirty days from the date he 182
receives notice under division (A) of this section to consent or 183
refuse to consent to the adoption of the minor subject to the 184
notice. The putative father shall respond in writing to the person 185
that sent the notice, which response shall state whether the 186
putative father consents or refuses to consent to the adoption. 187
The response shall be made by certified mail. 188

(C) Consent to adoption is not required of a putative father 189
who fails to send a timely written response to a notice described 190
in division (A) of this section regarding the minor subject to the 191
notice. A putative father who receives notice under division (A) 192
of this section does not lose his right to consent to adoption 193
under the requirements of division (B)(1) or (2)(c) of section 194
3107.07 of the Revised Code. 195

Sec. 3107.07. ~~Consent~~ Except as provided in section 3107.067 196
of the Revised Code, consent to adoption is not required of any of 197
the following: 198

(A) A parent of a minor, when it is alleged in the adoption 199
petition and the court, after proper service of notice and 200
hearing, finds by clear and convincing evidence that the parent 201
has failed without justifiable cause to provide more than de 202
minimis contact with the minor or to provide for the maintenance 203

and support of the minor as required by law or judicial decree for 204
a period of at least one year immediately preceding either the 205
filing of the adoption petition or the placement of the minor in 206
the home of the petitioner. 207

(B) The putative father of a minor if either of the following 208
applies: 209

(1) The putative father fails to register as the minor's 210
putative father with the putative father registry established 211
under section 3107.062 of the Revised Code not later than ~~thirty~~ 212
seven days after the minor's birth; 213

(2) The court finds, after proper service of notice and 214
hearing, that any of the following are the case: 215

(a) The putative father is not the father of the minor; 216

(b) The putative father has willfully abandoned or failed to 217
care for and support the minor; 218

(c) The putative father has willfully abandoned the mother of 219
the minor during her pregnancy and up to the time of her surrender 220
of the minor, or the minor's placement in the home of the 221
petitioner, whichever occurs first. 222

(C) Except as provided in section 3107.071 of the Revised 223
Code, a parent who has entered into a voluntary permanent custody 224
surrender agreement under division (B) of section 5103.15 of the 225
Revised Code; 226

(D) A parent whose parental rights have been terminated by 227
order of a juvenile court under Chapter 2151. of the Revised Code; 228

(E) A parent who is married to the petitioner and supports 229
the adoption; 230

(F) The father, or putative father, of a minor if the minor 231
is conceived as the result of the commission of rape by the father 232
or putative father and the father or putative father is convicted 233

of or pleads guilty to the commission of that offense. As used in 234
this division, "rape" means a violation of section 2907.02 of the 235
Revised Code or a similar law of another state. 236

(G) A legal guardian or guardian ad litem of a parent 237
judicially declared incompetent in a separate court proceeding who 238
has failed to respond in writing to a request for consent, for a 239
period of thirty days, or who, after examination of the written 240
reasons for withholding consent, is found by the court to be 241
withholding consent unreasonably; 242

(H) Any legal guardian or lawful custodian of the person to 243
be adopted, other than a parent, who has failed to respond in 244
writing to a request for consent, for a period of thirty days, or 245
who, after examination of the written reasons for withholding 246
consent, is found by the court to be withholding consent 247
unreasonably; 248

(I) The spouse of the person to be adopted, if the failure of 249
the spouse to consent to the adoption is found by the court to be 250
by reason of prolonged unexplained absence, unavailability, 251
incapacity, or circumstances that make it impossible or 252
unreasonably difficult to obtain the consent or refusal of the 253
spouse; 254

(J) Any parent, legal guardian, or other lawful custodian in 255
a foreign country, if the person to be adopted has been released 256
for adoption pursuant to the laws of the country in which the 257
person resides and the release of such person is in a form that 258
satisfies the requirements of the immigration and naturalization 259
service of the United States department of justice for purposes of 260
immigration to the United States pursuant to section 101(b)(1)(F) 261
of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 262
U.S.C. 1101(b)(1)(F), as amended or reenacted. 263

(K) Except as provided in divisions (G) and (H) of this 264

section, a juvenile court, agency, or person given notice of the 265
petition pursuant to division (A)(1) of section 3107.11 of the 266
Revised Code that fails to file an objection to the petition 267
within fourteen days after proof is filed pursuant to division (B) 268
of that section that the notice was given; 269

(L) Any guardian, custodian, or other party who has temporary 270
custody of the child. 271

Sec. 3107.16. (A) Appeals from the probate court are subject 272
to the Rules of Appellate Procedure and, to the extent not in 273
conflict with those rules, Chapter 2505. of the Revised Code. 274
Unless there is good cause for delay, appeals shall be heard on an 275
expedited basis. 276

(B) Subject to the disposition of an appeal, upon the 277
expiration of ~~one-year~~ sixty days after an adoption decree is 278
issued, the decree cannot be questioned by any person, including 279
the petitioner, in any manner or upon any ground, including fraud, 280
misrepresentation, failure to give any required notice, or lack of 281
jurisdiction of the parties or of the subject matter, unless, in 282
the case of the adoption of a minor, the petitioner has not taken 283
custody of the minor, or, in the case of the adoption of a minor 284
by a stepparent, the adoption would not have been granted but for 285
fraud perpetrated by the petitioner or the petitioner's spouse, 286
or, in the case of the adoption of an adult, the adult had no 287
knowledge of the decree within the ~~one-year~~ sixty-day period. 288

Sec. 5103.17. (A) Subject to section 5103.16 of the Revised 289
Code, ~~no~~ and to division (C) of this section: 290

(1) No person or government entity, other than a private 291
child placing agency or private noncustodial agency certified by 292
the department of job and family services under section 5103.03 of 293
the Revised Code or a public children services agency, shall 294

~~advertise that the person or government entity will adopt children~~ 295
~~or place them in foster homes,~~ hold out inducements to parents to 296
part with their offspring, or in any manner knowingly become a 297
party to the separation of a child from the child's parents or 298
guardians, except through a juvenile court or probate court 299
commitment. 300

(2) No government entity, other than a private child placing 301
agency or private noncustodial agency certified by the department 302
of job and family services under section 5103.03 of the Revised 303
Code or a public children services agency, shall advertise that 304
the government entity places children in foster homes. 305

(B) If the department of job and family services has 306
reasonable cause to believe a violation of division (A) of this 307
section has been committed, the department shall notify the 308
attorney general or the county prosecutor, city attorney, village 309
solicitor, or other chief legal officer of the political 310
subdivision in which the violation has allegedly occurred. On 311
receipt of the notification, the attorney general, county 312
prosecutor, city attorney, village solicitor, or other chief legal 313
officer shall take action to enforce this section through 314
injunctive relief or criminal charge. 315

(C) A person may advertise that the person will adopt 316
children. 317

Sec. 5747.37. As used in this section: 318

(A) "Minor child" means a person under eighteen years of age. 319

(B) "Legally adopt" means to adopt a minor child pursuant to 320
Chapter 3107. of the Revised Code, or pursuant to the laws of any 321
other state or nation if such an adoption is recognizable under 322
section 3107.18 of the Revised Code. For the purposes of this 323
section, a minor child is legally adopted when the final decree or 324

order of adoption is issued by the proper court under the laws of 325
the state or nation under which the child is adopted, or, in the 326
case of an interlocutory order of adoption, when the order becomes 327
final under the laws of the state or nation. "Legally adopt" does 328
not include the adoption of a minor child by the child's 329
stepparent. 330

There is hereby granted a credit against the tax imposed by 331
section 5747.02 of the Revised Code for the legal adoption by a 332
taxpayer of a minor child. The amount of the credit shall be ~~one~~ 333
ten thousand ~~five hundred~~ dollars for each minor child legally 334
adopted by the taxpayer. The taxpayer shall claim the credit for 335
each child beginning with the taxable year in which the child was 336
legally adopted. If the sum of the credit to which the taxpayer 337
would otherwise be entitled under this section is greater than the 338
tax due under section 5747.02 of the Revised Code for that taxable 339
year after allowing for any other credits that precede the credit 340
under this section in the order required under section 5747.98 of 341
the Revised Code, such excess shall be allowed as a credit in each 342
of the ensuing ~~two~~ five taxable years, but the amount of any 343
excess credit allowed in any such taxable year shall be deducted 344
from the balance carried forward to the ensuing taxable year. The 345
credit shall be claimed in the order required under section 346
5747.98 of the Revised Code. For the purposes of making tax 347
payments under this chapter, taxes equal to the amount of the 348
credit shall be considered to be paid to this state on the first 349
day of the taxable year. 350

Sec. 5747.98. (A) To provide a uniform procedure for 351
calculating the amount of tax due under section 5747.02 of the 352
Revised Code, a taxpayer shall claim any credits to which the 353
taxpayer is entitled in the following order: 354

(1) The retirement income credit under division (B) of 355

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| section 5747.055 of the Revised Code; | 356 |
| (2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code; | 357 358 |
| (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code; | 359 360 |
| (4) The dependent care credit under section 5747.054 of the Revised Code; | 361 362 |
| (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code; | 363 364 |
| (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code; | 365 366 |
| (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code; | 367 368 |
| (8) The low-income credit under section 5747.056 of the Revised Code; | 369 370 |
| (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code; | 371 372 |
| (10) The campaign contribution credit under section 5747.29 of the Revised Code; | 373 374 |
| (11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code; | 375 376 |
| (12) The joint filing credit under division (G) of section 5747.05 of the Revised Code; | 377 378 |
| (13) The nonresident credit under division (A) of section 5747.05 of the Revised Code; | 379 380 |
| (14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; | 381 382 |
| (15) The earned income credit under section 5747.71 of the Revised Code; | 383 384 |

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| (16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code; | 385 386 |
| (17) The credit for adoption of a minor child under section 5747.37 of the Revised Code; | 387 388 |
| (18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code; | 389 390 |
| (19) <u>(18)</u> The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code; | 391 392 |
| (20) <u>(19)</u> The credit for selling alternative fuel under section 5747.77 of the Revised Code; | 393 394 |
| (21) <u>(20)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code; | 395 396 397 |
| (22) <u>(21)</u> The job training credit under section 5747.39 of the Revised Code; | 398 399 |
| (23) <u>(22)</u> The enterprise zone credit under section 5709.66 of the Revised Code; | 400 401 |
| (24) <u>(23)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code; | 402 403 |
| <u>(24) The credit for adoption of a minor child under section 5747.37 of the Revised Code;</u> | 404 405 |
| (25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code; | 406 407 |
| (26) The ethanol plant investment credit under section 5747.75 of the Revised Code; | 408 409 |
| (27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code; | 410 411 |
| (28) The small business investment credit under section 5747.81 of the Revised Code; | 412 413 |

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| (29) The enterprise zone credits under section 5709.65 of the Revised Code; | 414 415 |
| (30) The research and development credit under section 5747.331 of the Revised Code; | 416 417 |
| (31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code; | 418 419 |
| (32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code; | 420 421 |
| (33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code; | 422 423 |
| (34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; | 424 425 |
| (35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code; | 426 427 428 |
| (36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code; | 429 430 431 |
| (37) The refundable motion picture production credit under section 5747.66 of the Revised Code. | 432 433 |
| (38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code. | 434 435 436 |
| (B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. | 437 438 439 440 441 442 443 |

Nothing in this chapter shall be construed to allow a taxpayer to 444
claim, directly or indirectly, a credit more than once for a 445
taxable year. 446

Section 2. That existing sections 3107.055, 3107.062, 447
3107.064, 3107.07, 3107.16, 5103.17, 5747.37, and 5747.98 of the 448
Revised Code are hereby repealed. 449

Section 3. The amendment by this act of section 5747.37 of 450
the Revised Code applies to taxable years ending on or after the 451
effective date of this act. 452