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## ADOPTION AGENCIES

Senate Bill 724 (Substitute H-1)  
First Analysis (5-18-94)

Sponsor: Sen. Jack Welborn  
Senate Committee: Family Law, Criminal  
Law, and Corrections  
House Committee: Judiciary

### ***THE APPARENT PROBLEM:***

After a series of exhaustive public hearings and testimony, the Binsfeld Commission on Adoption issued a detailed and wide-ranging report on April 23, 1992. Many of the issues addressed by the report's 67 recommendations, such as whether and how to allow direct placement adoptions, and whether and how to allow access to heretofore closed adoption records, have been and continue to be the subject of much attention in the legislature. In addition to matters of broad reform, however, the report pointed out a number of other significant issues in need of attention.

One such issue has been raised by the emergence of licensed, for-profit adoption agencies in Michigan. Although until recently, all adoption agencies were nonprofit, recent years have seen the establishment of licensed, for-profit adoption agencies. Pointing out the competing interests of the profit motive and keeping the best interests of children paramount, the Binsfeld commission recommended legislation to prohibit for-profit agencies from operating in Michigan.

### ***THE CONTENT OF THE BILL:***

The bill would amend the child care organization licensing act (Public Act 116 of 1973) to require a child placing agency to be either a governmental agency or an agency organized under the Nonprofit Corporation Act.

The bill also would require child placing agencies to provide information when requested by the children's ombudsman to be established under Senate Bill 723. In addition, the bill would authorize the children's ombudsman, and specified committees of the House or Senate (as provided in the Child Protection Law), to obtain records that

would otherwise be kept as confidential records by child care licensees.

The bill would take effect six months after its enactment, but could not take effect unless Senate Bills 299, 721-723, and 725 also were enacted.

MCL 722.111 and 722.120

### ***HOUSE COMMITTEE ACTION:***

The House Judiciary Committee adopted a substitute bill that differed from the Senate-passed version in its effective date and in specifics of provisions on providing otherwise confidential information to legislative committees and the children's ombudsman.

### ***FISCAL IMPLICATIONS:***

With regard to the Senate-passed version of the bill, the Senate Fiscal Agency noted that the bill would have no fiscal impact on state or local government. (3-15-94)

### ***ARGUMENTS:***

#### ***For:***

The bill would put an end to for-profit adoption agencies in Michigan. The need for the bill was perhaps best expressed by the Binsfeld Commission, when it said that there is "an inherent conflict between insuring the best interests of children, and the business of adoption for profit. By introducing the profit motive into adoption proceedings the potential exists for treating children as commodities to be marketed for financial gain. We believe that the for-profit approach destroys the very essence of our mission, to protect the best interests of the

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child." The bill would ensure that the "business" of adoption agencies remains children, not profit.

***Against:***

Testimony in the House Judiciary Committee suggested that the numbers of for-profit adoption agencies in Michigan have already been reduced from two to one. The need for the bill is thus debatable. Moreover, many nonprofit agencies have engaged in questionable practices over the years, and some may pay officers inflated salaries; nonprofit status is no guarantee of ethical conduct or professional expertise. Perhaps rather than forbidding for-profit status, the focus should be on ensuring that all agencies operate within clearly articulated guidelines and boundaries.

***Against:***

Other adoption reforms pending in the legislature would enable for-profit entities, namely attorneys, to become facilitators in direct placement adoptions. Adoption agencies as such could be largely bypassed. The bill thus is inconsistent with other elements of the adoption package. Either all adoption agencies and facilitators should be required to be nonprofit organizations, or all should be allowed to have for-profit status.

***POSITIONS:***

The Michigan County Social Services Association supports the bill. (5-13-94)

The Michigan Federation of Private Child and Family Agencies supports the bill. (5-13-94)

The Coalition of Child Placing Agencies supports requiring child placing agencies to be not-for-profit, but believes that if such a requirement were to be enacted, it should apply to all adoption facilitators. (5-13-94)