

615 chapter[;] and is not a basis for dismissal of a petition for adoption, vacation of an adoption  
 616 decree, or an automatic grant of custody to the offended party. Custody determinations shall be  
 617 based on the best [~~interest~~] interests of the child, in accordance with the provisions of Section  
 618 78B-6-133.

619 (3) A child-placing agency and the employees of a child-placing agency may not:

620 (a) employ any device, scheme, or artifice to defraud;

621 (b) engage in any act, practice, or course of business that operates or would operate as a  
 622 fraud or deceit upon any person;

623 (c) materially and intentionally misrepresent facts or information; or

624 (d) request or require a prospective adoptive parent to grant, as a condition of or in  
 625 connection with entering into an agreement with a child-placing agency, a release of either the  
 626 prospective adoptive parent's claims or the adoptive child's claims against the child-placing  
 627 agency regarding any of the following:

628 (i) criminal misconduct;

629 (ii) ethical violations, as established by the Office of Licensing's administrative rules;

630 (iii) bad faith;

631 (iv) intentional torts;

632 (v) fraud;

633 (vi) ~~§~~→ **gross negligence associated with** ←~~§~~ care of the child, as described in Subsection  
 633a 78B-6-134(3);

634 (vii) future misconduct that may arise before the adoption is finalized;

635 (viii) breach of contract; or

636 (ix) gross negligence.

637 (4) Subsection (3) does not prohibit a release of claims against a child-placing agency  
 638 or a child-placing agency's employees for liability arising from the acts or the failure to act of a  
 639 third party.

640 Section 12. Section **78B-6-110.1** is amended to read:

641 **78B-6-110.1. Prebirth notice to presumed father of intent to place a child for**  
 642 **adoption.**

643 (1) As used in this section, "birth father" means:

644 (a) a potential biological father; or

645 (b) an unmarried biological father.