The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this Act consists of the following:

DAVID D. BIKLEN, 799 Prospect Ave., West Hartford, CT 06105 Chair
BARBARA ATWOOD, University of Arizona-James E. Rogers College of Law, 1201 E. Speedway Blvd., P.O. Box 210176, Tucson, AZ 85721-0176
VINCENT C. DeLIBERATO, JR., Legislative Reference Bureau, Main Capitol Bldg., Room 641, 501 N. 3rd St., Harrisburg, PA 17120-0033
VINCENT HENDERSON, Bureau of Legislative Research, One Capitol Mall, 5th Floor, Little Rock, AR 72201
LYLE W. HILLYARD, 595 S. Riverwoods Pkwy., Suite 100, Logan, UT 84321
DEBRA H. LEHRMANN, Supreme Court of Texas, Supreme Court Bldg., 201 W. 14th St., Room 104, Austin, TX 78701
JAMES G. MANN, Room B-6, Main Capitol Bldg., P.O. Box 202228, Harrisburg, PA 17120
LAURA McCONNELL-CORBYN, 201 Robert S. Kerr Ave., Suite 1600, Oklahoma City, OK 73102-4216
LOUISE ELLEN TEITZ, Roger Williams University School of Law, 10 Metacom Ave., Bristol, RI 02809-5103
STEPHANIE J. WILLBANKS, Vermont Law School, 164 Chelsea St., P.O. Box 96, South Royalton, VT 05068
ARTHUR R. GAUDIO, Western New England University School of Law, 1215 Wilbraham Rd., Springfield, MA 01119-2612, Reporter

EX OFFICIO
ANITA RAMASASTRY, University of Washington School of Law, William H. Gates Hall, Box 353020, Seattle, WA 98195-3020, President
CANDACE ZIERDT, Stetson University College of Law, 1401 61st St. S., Gulfport, FL 33707, Division Chair
DEBORAH E. BEHR, P.O. Box 20887, Juneau, AK 99802, Liaison, Committee on Style

EXECUTIVE DIRECTOR
STEVEN L. WILLBORN, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, Interim Executive Director

Copies of this act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS
111 N. Wabash Ave., Suite 1010
Chicago, IL 60602
312/450-6600
www.uniformlaws.org
### UNREGULATED TRANSFERS OF ADOPTED CHILDREN ACT

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UNREGULATED TRANSFERS OF ADOPTED CHILDREN ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Unregulated Transfers of Adopted Children Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Child” means an unemancipated individual who is under [18] years of age.

(2) “Child-placing agency” means a person that engages in the activity, under the law of this state other than this [act], of:

(A) receiving, accepting, or providing custody or care for a child, temporarily or permanently, to find an individual to adopt the child; or

(B) placing a child, temporarily or permanently, in a home for adoption or substitute care.

(3) “Intercountry adoption” means an adoption of a child who:

(A) is not a citizen of the United States at the time of the adoption; and

(B) enters the United States:

(i) after the child was adopted in the foreign country by a United States citizen or permanent resident alien, or

(ii) for the purpose of being adopted by a United States citizen or permanent resident alien in:

(I) the United States; or

(II) the foreign country.

(4) “Person” means individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(5) “Prospective adoptive parent” means an individual who applies to a child-placing agency to adopt a child.
(6) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

SECTION 3. SCOPE. This [act] applies only to adoption of a child who is the subject of an intercountry adoption.

SECTION 4. PROHIBITED TRANSFER.

(a) Except as otherwise provided in subsection (b), an individual who intends to relinquish the legal rights and responsibilities as a parent or guardian of a child may not knowingly transfer physical custody of the child to, or allow a temporary transfer of physical custody to continue with, a person without complying with the other laws of this state other than this act to transfer or suspend the legal rights and responsibilities of parenthood or guardianship by:

(1) adoption, guardianship, or other judicial proceeding; or

(2) placement with a child-placing agency.

(b) This section does not apply to a transfer of physical custody of a child for a specified period to an individual who is:

(1) a parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian of the child;

(2) an adult friend of the individual:

(A) who adopted the child; and

(B) with whom the child is familiar; or
(3) a member of the child’s federally recognized Indian tribe.

(c) A transfer of physical custody of a child in violation of this section is void.

(d) A person who violates this section is guilty of a [class B misdemeanor].

SECTION 5. DISCLOSURE AND TRAINING BEFORE PLACEMENT OF

CHILD. Before referring a child for adoption, or entering into a contract to provide adoption services, to a prospective adoptive parent, the child-placing agency shall ensure that the prospective adoptive parent receives the information under Section 6 and training under Section 7.

SECTION 6. INFORMATION TO PROSPECTIVE ADOPTIVE PARENT. To the extent available, a child-placing agency shall provide a prospective adoptive parent in an intercountry adoption with:

(1) a social history of the child to be adopted, including:

(A) a history of the child’s cultural, racial, religious, ethnic, linguistic, and educational background; and

(B) any condition in the child’s country of origin to which the child might have been exposed and which affects the child’s physical or mental health;

(2) a record of the child’s:

(A) physical health, mental health, behavioral issues, and exposure to trauma, including whether the child-placing agency knows or suspects that the child was exposed in utero to alcohol or drugs; and

(B) history of any institutionalization or adoptive or foster home placement and the reason any placement was terminated; and

(3) other information the child-placing agency considers important to a successful
SECTION 7. TRAINING FOR PROSPECTIVE ADOPTIVE PARENT. A child-placing agency shall provide a prospective adoptive parent in an intercountry adoption with at least [30] hours of training on:

(1) the effect on a child of leaving familiar ties and surroundings, and the grief, loss, and identity issues that a child experiences in adoption;

(2) the effect on a child of institutionalization or a previous adoption or foster care placement;

(3) fetal-alcohol-spectrum disorder, attachment disorder, trauma-related disorder, and other emotional problems of a child, particularly if a child has been institutionalized, traumatized, or cared for in multiple previous institutionalizations, adoptions, or foster home placements;

(4) the general characteristics of a successful adoption placement, including information on the financial resources, time management requirements, and insurance coverage;

(5) medical, therapeutic, and educational services for a child, including language acquisition training;

(6) how to access post-placement and post-adoption services that assist the adoptive parent and child to respond effectively to required adjustment, behavioral change, and other difficulty that might arise after a child is placed or adopted;

(7) issues that lead to the disruption of an adoptive placement or the dissolution of an adoption, including how an adoptive parent may access resources to avoid disruption or dissolution;

(8) the long-term implications of adopting a child of a different culture from the
prospective adoptive parent;

(9) for a prospective adoptive parent who seeks to adopt two or more unrelated children:

(A) the differing needs of the children based on their respective ages,

backgrounds, and length of time in institutionalization or foster care; and

(B) the time management requirements and other challenges of adopting more

than one child;

(10) the prohibition contained in Section 4; and

(11) other matters the child-placing agency considers important to a successful adoption.

SECTION 8. INVESTIGATION; TERMINATION OF CERTAIN LEGAL RIGHTS.

(a) If the [Department of Child Protection] reasonably suspects a violation of Section 4,

the [Department] shall make an investigation. Before starting the investigation, the [Department]

shall provide notice to the child’s adoptive parent and the person who has custody of the child.

(b) The [Department of Child Protection] may enter public or private premises to conduct

an investigation under subsection (a).

(c) If the [Department of Child Protection] determines that the adoptive parent has

violated Section 4, the [Department] may bring an action in court under the laws of this state

other than this [act] to terminate the legal rights of parentage of the adoptive parent.

SECTION 9. DUTY TO REPORT. If a person in this state has reason to believe that

Section 4 has been violated, the person immediately shall report the alleged violation to the

[Department of Child Protection].

SECTION 10. PROHIBITED ADVERTISING.

(a) Except as otherwise provided in subsection (b), a person may not knowingly
advertise:

(1) to adopt a child or take a child into permanent physical custody;

(2) that the person will find an adoptive home or other placement for permanent physical custody of a child or arrange for or assist in an adoption, adoptive placement, or other placement for permanent physical custody of a child; or

(3) that the person will transfer a child for adoption or other placement for permanent physical custody.

(b) This section does not apply to:

(1) the [Department of Child Protection] or a child welfare agency licensed under the law of this state to place a child for adoption in a licensed institution, foster home, or group home, or in the home of guardian; or

(2) a foster-care center and adoption-resource center or post-adoption resource center funded by this state.

(c) This section does not prohibit an attorney licensed to practice law in this state from advertising the attorney’s availability to provide services relating to an adoption of a child.

(d) Any person that violates this section is guilty of a [class B misdemeanor].

SECTION 11. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

[SECTION 12. SAVINGS CLAUSE. This [act] does not affect a legal proceeding pending on [the effective date of this [act]].]

[SECTION 13. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or
applications of this [act] which can be given effect without the invalid provision or application,

and to this end the provisions of this [act] are severable.]

Legislative Note: Include this section only if this state lacks a general severability statute or a
decision by the highest court of this state stating a general rule of severability.

[SECTION 14. REPEALS; CONFORMING AMENDMENTS.

(a) . . . .

(b) . . . .

(c) . . . .]

SECTION 15. EFFECTIVE DATE. This [act] takes effect . . . .