

D R A F T
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UNREGULATED TRANSFERS OF ADOPTED CHILDREN ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

April 5-6, 2019 Drafting Committee Meeting

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February 27, 2019

UNREGULATED TRANSFERS OF ADOPTED CHILDREN ACT

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1 **UNREGULATED TRANSFERS OF ADOPTED CHILDEN ACT**

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

4 **SECTION 2. DEFINITIONS.** In this [act]:

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

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

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

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

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

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

14 (B) enters the United States:

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

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

19 (I) the United States; or

20 (II) the foreign country.

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

23 (5) “Prospective adoptive parent” means an individual who applies to a child-placing
24 agency to adopt a child.

1 (6) “Record” means information that is inscribed on a tangible medium or that is stored in
2 an electronic or other medium and is retrievable in a perceivable form.

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

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

8 **SECTION 4. PROHIBITED TRANSFER.**

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

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

16 (2) placement with a child-placing agency.

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

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

21 (2) an adult friend of the individual:

22 (A) who adopted the child; and

23 (B) with whom the child is familiar; or

1 (3) a member of the child’s federally recognized Indian tribe.

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

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

4 **SECTION 5. DISCLOSURE AND TRAINING BEFORE PLACEMENT OF**

5 **CHILD.** Before referring a child for adoption, or entering into a contract to provide adoption
6 services, to a prospective adoptive parent, the child-placing agency shall ensure that the
7 prospective adoptive parent receives the information under Section 6 and training under Section
8 7.

9 **SECTION 6. INFORMATION TO PROSPECTIVE ADOPTIVE PARENT.** To the

10 extent available, a child-placing agency shall provide a prospective adoptive parent in an
11 intercountry adoption with:

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

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

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

17 (2) a record of the child’s:

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

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

23 (3) other information the child-placing agency considers important to a successful

1 adoption.

2 **SECTION 7. TRAINING FOR PROSPECTIVE ADOPTIVE PARENT.** A child-
3 placing agency shall provide a prospective adoptive parent in an intercountry adoption with at
4 least [30] hours of training on:

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

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

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

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

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

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

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

23 (8) the long-term implications of adopting a child of a different culture from the

1 prospective adoptive parent;

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

3 (A) the differing needs of the children based on their respective ages,
4 backgrounds, and length of time in institutionalization or foster care; and

5 (B) the time management requirements and other challenges of adopting more
6 than one child;

7 (10) the prohibition contained in Section 4; and

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

9 **SECTION 8. INVESTIGATION; TERMINATION OF CERTAIN LEGAL**
10 **RIGHTS.**

11 (a) If the [Department of Child Protection] reasonably suspects a violation of Section 4,
12 the [Department] shall make an investigation. Before starting the investigation, the [Department]
13 shall provide notice to the child's adoptive parent and the person who has custody of the child.

14 (b) The [Department of Child Protection] may enter public or private premises to conduct
15 an investigation under subsection (a).

16 (c) If the [Department of Child Protection] determines that the adoptive parent has
17 violated Section 4, the [Department] may bring an action in court under the laws of this state
18 other than this [act] to terminate the legal rights of parentage of the adoptive parent.

19 **SECTION 9. DUTY TO REPORT.** If a person in this state has reason to believe that
20 Section 4 has been violated, the person immediately shall report the alleged violation to the
21 [Department of Child Protection].

22 **SECTION 10. PROHIBITED ADVERTISING.**

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

1 advertise:

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

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

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

8 (b) This section does not apply to:

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

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

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

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

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

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

22 **[SECTION 13. SEVERABILITY.** If any provision of this [act] or its application to
23 any person or circumstance is held invalid, the invalidity does not affect other provisions or

1 applications of this [act] which can be given effect without the invalid provision or application,
2 and to this end the provisions of this [act] are severable.]

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

5
6 **[SECTION 14. REPEALS; CONFORMING AMENDMENTS.**

7 (a)

8 (b)

9 (c)]

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