



HOUSE BILL 424: Prohibit Unlawful Custody Transfer of Child.

2016-2017 General Assembly

Committee: Senate Judiciary I
Introduced by: Reps. Stevens, Glazier
Analysis of: Third Edition

Date: June 27, 2016
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SUMMARY: *House Bill 424 would prohibit the unlawful transfer of custody of a minor child.*

[As introduced, this bill was Senate Bill 652, Prohibit Re-Homing of an Adopted Minor Child, as introduced by Sens. Stein and Barringer.]

BILL ANALYSIS:

Section 1 of House Bill 424 would create a new G.S. 14-321.2 in the criminal law to do the following:

- Make it a criminal offense for:
 - A parent to effect or attempt to effect an unlawful transfer of custody of that parent's minor child.
 - A person to accept or attempt to accept custody pursuant to an unlawful custody transfer except when the person promptly notifies law enforcement or child protective services.
 - A person to advertise, recruit, or solicit, or aid, abet, conspire, or seek the assistance of another to effect the unlawful custody transfer of a minor.
- Define "unlawful transfer of custody" as the permanent transfer of physical custody of a minor child by the child's parent, without a court order or other authorization under law, to a person other than a relative or other individual having a substantial relationship with the child.
 - "Relative" is defined as the child's other parent, stepparent, grandparent, adult sibling, aunt, uncle, first cousin, great-aunt, great-uncle, great-grandparent, or a parent's first cousin.
- Specify that compensation is not required for an unlawful custody transfer to occur.
- Provide that unlawful custody transfer does not include placement of a minor pursuant to specified statutes, temporary placement of a child under specified circumstances, or placement with a prospective adoptive parent consistent with applicable adoption laws.
- Make a violation of the offense a Class A1 misdemeanor; however, a violation that results in serious physical injury to the child is punishable as a Class G felony.

Section 2 would clarify that the prohibition against advertising adoptions by "other public medium" includes email, the Internet, and other similar forms of communication. [G.S. 48-10-101(b).]

Sections 3 and 4 would make conforming changes to statutes in the Juvenile Code.

Section 5 requires the Department of Health and Human Services to collect data on the incidence of disrupted adoptions and unlawful transfer of custody of children in North Carolina and the outcomes for children and families associated with disrupted adoptions, and shall develop a program to provide needed supports to families at risk of adoption disruptions in order to keep families together.

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BACKGROUND: The United States Government Accountability Office GAO was asked to review issues related to unregulated transfers of adopted children, and specifically (1) the reasons adoptive families consider unregulated child custody transfers, and services that exist to support these families before they take such an action; (2) what is known about the prevalence of these transfers; and (3) actions selected states and federal agencies have taken to help address such transfers. Report GAO-15-733, issued in September 2015, can be found at: <http://www.gao.gov/assets/680/672575.pdf> .

EFFECTIVE DATE: Sections 1, 3, and 4 of this act become effective December 1, 2015, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.