

By: Parker

H.B. No. 834

A BILL TO BE ENTITLED

AN ACT

relating to regulating the custody transfer of an adopted child;
creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 162, Family Code, is amended by adding Section 162.026 to read as follows:

Sec. 162.026. REGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

A parent, managing conservator, or guardian of an adopted child may not transfer permanent physical custody of the child to any person who is not a relative or stepparent of the child or an adult who has a significant and long-standing relationship with the child unless:

(1) the parent, managing conservator, or guardian files a petition with a court of competent jurisdiction requesting a transfer of custody; and

(2) the court approves the petition.

SECTION 2. Subchapter G, Chapter 162, Family Code, is amended by adding Section 162.603 to read as follows:

Sec. 162.603. POST-ADOPTION SUPPORT INFORMATION PROVIDED BY LICENSED CHILD-PLACING AGENCIES. A licensed child-placing agency shall provide prospective adoptive parents with information regarding:

(1) the community services and other resources available to support a parent who adopts a child; and

(2) the options available to the adoptive parent if

1 the parent is unable to care for the adopted child.

2 SECTION 3. Chapter 25, Penal Code, is amended by adding
3 Section 25.081 to read as follows:

4 Sec. 25.081. UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

5 (a) In this section:

6 (1) "Adopted child" means a person younger than 18
7 years of age adopted through a governmental entity or a private
8 child placement agency, including a person who is in foster care or
9 from a foreign country at the time of the adoption.

10 (2) "Unregulated custody transfer" means the transfer
11 of the permanent physical custody of an adopted child by the parent,
12 managing conservator, or guardian of the child without receiving
13 approval of the transfer by a court as required by Section 162.026,
14 Family Code.

15 (b) Except as otherwise provided by this section, a person
16 commits an offense if the person knowingly:

17 (1) conducts an unregulated custody transfer of an
18 adopted child; or

19 (2) facilitates or participates in the unregulated
20 custody transfer of an adopted child, including by transferring,
21 recruiting, harboring, transporting, providing, soliciting, or
22 obtaining an adopted child for that purpose.

23 (c) An offense under this section is a felony of the third
24 degree, except that the offense is a felony of the second degree if
25 the actor commits the offense with intent to commit an offense under
26 Section 20A.02, 43.02, 43.05, 43.25, 43.251, or 43.26.

27 (d) This section does not apply to:

1 (1) the placement of an adopted child with a licensed
2 child-placing agency, the Department of Family and Protective
3 Services, or an adult relative, stepparent, or other adult with a
4 significant and long-standing relationship to the child;

5 (2) the placement of an adopted child by a licensed
6 child-placing agency or the Department of Family and Protective
7 Services;

8 (3) the temporary placement of an adopted child by the
9 child's parent, managing conservator, or guardian for a designated
10 short-term period with a specified intent and period for return of
11 the child due to temporary circumstances, including:

12 (A) a vacation;

13 (B) a school-sponsored function or activity; or

14 (C) the incarceration, military service, medical
15 treatment, or incapacity of the parent, managing conservator, or
16 guardian;

17 (4) the placement of an adopted child in another state
18 in accordance with the requirements of Subchapter B, Chapter 162,
19 Family Code; or

20 (5) the voluntary delivery of an adopted child under
21 Subchapter D, Chapter 262, Family Code.

22 SECTION 4. Section 25.09(a), Penal Code, is amended to read
23 as follows:

24 (a) A person commits an offense if the person advertises in
25 the public media that the person will place, ~~[a child for adoption~~
26 ~~or will]~~ provide, or obtain a child for adoption or any other form
27 of permanent physical custody of the child.

1 SECTION 5. The change in law made by this Act to Section
2 25.09, Penal Code, applies only to an offense committed on or after
3 the effective date of this Act. An offense committed before the
4 effective date of this Act is governed by the law in effect on the
5 date the offense was committed, and the former law is continued in
6 effect for that purpose. For purposes of this section, an offense
7 was committed before the effective date of this Act if any element
8 of the offense was committed before that date.

9 SECTION 6. This Act takes effect September 1, 2017.