

1-1 By: Parker (Senate Sponsor - Birdwell) H.B. No. 834  
1-2 (In the Senate - Received from the House May 3, 2017;  
1-3 May 5, 2017, read first time and referred to Committee on State  
1-4 Affairs; May 12, 2017, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 12, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Estes	X		
1-13	Lucio	X		
1-14	Nelson	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to regulating the custody transfer of an adopted child;  
1-20 creating a criminal offense.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter A, Chapter 162, Family Code, is  
1-23 amended by adding Section 162.026 to read as follows:

1-24 Sec. 162.026. REGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

1-25 A parent, managing conservator, or guardian of an adopted child may  
1-26 not transfer permanent physical custody of the child to any person  
1-27 who is not a relative or stepparent of the child or an adult who has  
1-28 a significant and long-standing relationship with the child unless:

1-29 (1) the parent, managing conservator, or guardian  
1-30 files a petition with a court of competent jurisdiction requesting  
1-31 a transfer of custody; and

1-32 (2) the court approves the petition.

1-33 SECTION 2. Subchapter G, Chapter 162, Family Code, is  
1-34 amended by adding Section 162.603 to read as follows:

1-35 Sec. 162.603. POST-ADOPTION SUPPORT INFORMATION PROVIDED  
1-36 BY LICENSED CHILD-PLACING AGENCIES. A licensed child-placing  
1-37 agency shall provide prospective adoptive parents with information  
1-38 regarding:

1-39 (1) the community services and other resources  
1-40 available to support a parent who adopts a child; and

1-41 (2) the options available to the adoptive parent if  
1-42 the parent is unable to care for the adopted child.

1-43 SECTION 3. Chapter 25, Penal Code, is amended by adding  
1-44 Section 25.081 to read as follows:

1-45 Sec. 25.081. UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

1-46 (a) In this section:

1-47 (1) "Adopted child" means a person younger than 18  
1-48 years of age adopted through a governmental entity or a private  
1-49 child placement agency, including a person who is in foster care or  
1-50 from a foreign country at the time of the adoption.

1-51 (2) "Unregulated custody transfer" means the transfer  
1-52 of the permanent physical custody of an adopted child by the parent,  
1-53 managing conservator, or guardian of the child without receiving  
1-54 approval of the transfer by a court as required by Section 162.026,  
1-55 Family Code.

1-56 (b) Except as otherwise provided by this section, a person  
1-57 commits an offense if the person knowingly:

1-58 (1) conducts an unregulated custody transfer of an  
1-59 adopted child; or

1-60 (2) facilitates or participates in the unregulated  
1-61 custody transfer of an adopted child, including by transferring,

2-1 recruiting, harboring, transporting, providing, soliciting, or  
2-2 obtaining an adopted child for that purpose.

2-3 (c) An offense under this section is a felony of the third  
2-4 degree, except that the offense is a felony of the second degree if  
2-5 the actor commits the offense with intent to commit an offense under  
2-6 Section 20A.02, 43.02, 43.05, 43.25, 43.251, or 43.26.

2-7 (d) This section does not apply to:

2-8 (1) the placement of an adopted child with a licensed  
2-9 child-placing agency, the Department of Family and Protective  
2-10 Services, or an adult relative, stepparent, or other adult with a  
2-11 significant and long-standing relationship to the child;

2-12 (2) the placement of an adopted child by a licensed  
2-13 child-placing agency or the Department of Family and Protective  
2-14 Services;

2-15 (3) the temporary placement of an adopted child by the  
2-16 child's parent, managing conservator, or guardian for a designated  
2-17 short-term period with a specified intent and period for return of  
2-18 the child due to temporary circumstances, including:

2-19 (A) a vacation;

2-20 (B) a school-sponsored function or activity; or

2-21 (C) the incarceration, military service, medical  
2-22 treatment, or incapacity of the parent, managing conservator, or  
2-23 guardian;

2-24 (4) the placement of an adopted child in another state  
2-25 in accordance with the requirements of Subchapter B, Chapter 162,  
2-26 Family Code; or

2-27 (5) the voluntary delivery of an adopted child under  
2-28 Subchapter D, Chapter 262, Family Code.

2-29 SECTION 4. Section 25.09(a), Penal Code, is amended to read  
2-30 as follows:

2-31 (a) A person commits an offense if the person advertises in  
2-32 the public media that the person will place, ~~[a child for adoption~~  
2-33 ~~or will]~~ provide, or obtain a child for adoption or any other form  
2-34 of permanent physical custody of the child.

2-35 SECTION 5. The change in law made by this Act to Section  
2-36 25.09, Penal Code, applies only to an offense committed on or after  
2-37 the effective date of this Act. An offense committed before the  
2-38 effective date of this Act is governed by the law in effect on the  
2-39 date the offense was committed, and the former law is continued in  
2-40 effect for that purpose. For purposes of this section, an offense  
2-41 was committed before the effective date of this Act if any element  
2-42 of the offense was committed before that date.

2-43 SECTION 6. This Act takes effect September 1, 2017.

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