

House Bill 834
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 the parent is unable to care for the adopted child.

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

Sec. 25.081. UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD. (a) In this section:

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

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

Sec. 25.081. UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD. (a) In this section:

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

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

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

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

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

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

(d) This section does not apply to:

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

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

(3) the temporary placement of an adopted child by the child's

SENATE VERSION (IE)

(1) "Adopted child" means a person younger than 18 years of age who was legally adopted through a governmental entity or through private means, including a person who is in foster care or from a foreign country at the time of the adoption.
[FA1]

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

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

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

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

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

(d) This section does not apply to:

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

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

(3) the temporary placement of an adopted child by the child's

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parent, managing conservator, or guardian for a designated short-term period with a specified intent and period for return of the child due to temporary circumstances, including:

(A) a vacation;

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

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

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

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

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

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

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

SENATE VERSION (IE)

parent, managing conservator, or guardian for a designated short-term period with a specified intent and period for return of the child due to temporary circumstances, including:

(A) a vacation;

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

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

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

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

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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

SENATE VERSION (IE)

SECTION 6. Same as House version.

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