

An Act

ENROLLED SENATE
BILL NO. 1601

By: Rosino of the Senate

and

Kannady of the House

An Act relating to transfer of child custody; creating the Uniform Unregulated Child Custody Transfer Act; providing short title; defining terms; limiting applicability to certain child custody; defining terms; stating applicability of act; prohibiting transfer of custody of child for certain purposes; providing exceptions; prohibiting receiving custody of child under certain circumstances; providing exception; creating misdemeanor offense; authorizing Department of Human Services to take certain actions; prohibiting certain solicitation or advertisement; providing for uniformity of application; clarifying application of certain act; providing for codification; and providing an effective date.

SUBJECT: Transfer of child custody

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

ARTICLE 1 - GENERAL PROVISIONS

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-101 of Title 43, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uniform Unregulated Child Custody Transfer Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-102 of Title 43, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Child" means an unemancipated individual under eighteen (18) years of age;

2. "Child-placing agency" means a person with authority under the laws of this state to identify or place a child for adoption. Child-placing agency does not include a parent of the child;

3. "Custody" means the exercise of physical care and supervision of a child;

4. "Intercountry adoption" means an adoption or placement for adoption of a child who resides in a foreign country at the time of adoption or placement, which includes an adoption finalized in the child's country of residence or in a state;

5. "Parent" means an individual recognized as a parent under the laws of this state;

6. "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity;

7. "Record" means information:

a. inscribed on a tangible medium, or

b. stored in an electronic or other medium and retrievable in perceivable form; and

8. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States, including a federally recognized Indian tribe.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-103 of Title 43, unless there is created a duplication in numbering, reads as follows:

This act shall not apply to custody of an Indian child as defined in Section 4(4) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section 1903(4), as amended, to the extent custody is governed by the Indian Child Welfare Act of 1978, 25 U.S.C. Sections 1901 through 1963, as amended.

ARTICLE 2 - PROHIBITION OF UNREGULATED CUSTODY TRANSFER

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-201 of Title 43, unless there is created a duplication in numbering, reads as follows:

As used in this article:

1. "Guardian" means a person recognized as a guardian under the laws of this state; and

2. "Intermediary" means a person that assists or facilitates a transfer of custody of a child, regardless of whether the person receives compensation for such assistance or facilitation.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-202 of Title 43, unless there is created a duplication in numbering, reads as follows:

The provisions of this article shall not apply to a transfer of custody of a child by a parent or guardian of the child to:

1. A parent of the child;

2. A stepparent of the child;

3. An adult who is related to the child by blood, marriage, adoption, or other relationship recognized by the laws of this state;

4. An adult who, at the time of the transfer, had a close relationship with the child or the parent or guardian of the child

for a substantial period, and whom the parent or guardian reasonably believes, at the time of the transfer, to be a fit custodian of the child;

5. An Indian custodian, as defined in Section 4(6) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section 1903(6), as amended, of the child; or

6. A member of the child's customary family unit recognized by the child's indigenous group under the laws of this state.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-203 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, a parent or guardian of a child or an individual with whom a child has been placed for adoption may not transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child.

B. A parent or guardian of a child or an individual with whom a child has been placed for adoption may transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child only through:

1. Adoption or guardianship;
2. A judicial award of custody;
3. Placement by or through a child-placing agency; or
4. Any other judicial or tribal action.

C. A person may not receive custody of a child or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates the requirements of subsection A of this section. Such prohibition does not apply if the person, as soon as practicable after the transfer, notifies the Department of Human Services or the appropriate law enforcement entity of the transfer, or takes appropriate action to

establish custody under the requirements of subsection B of this section.

D. A person in violation of this section shall, upon conviction, be guilty of a misdemeanor.

E. Violation of subsection A of this section is not established solely because a parent or guardian who transfers custody of a child does not regain custody.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-204 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. If the Department of Human Services has a reasonable basis to believe that a person has transferred or will transfer custody of a child in violation of subsection A of Section 6 of this act, the Department may conduct a home visit and take appropriate action to protect the welfare of the child as authorized by law.

B. If the Department conducts a home visit for a child adopted or placed through an intercountry adoption, the Department shall:

1. Prepare a report on the welfare and plan for permanent placement of the child; and

2. Provide a copy to the United States Department of State.

C. The provisions of this act shall not be construed to prevent the Department from taking appropriate action under any other law of this state.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-205 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A person shall not solicit or advertise to:

1. Identify a person to which to make a transfer of custody in violation of subsection A of Section 6 of this act;

2. Identify a child for a transfer of custody in violation of subsection C of Section 6 of this act; or

3. Act as an intermediary in a transfer of custody in violation of subsection C of Section 6 of this act.

B. A person in violation of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-401 of Title 43, unless there is created a duplication in numbering, reads as follows:

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561-402 of Title 43, unless there is created a duplication in numbering, reads as follows:

This act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended, but does not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

SECTION 11. This act shall become effective November 1, 2024.

Passed the Senate the 14th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 16th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____