

FINAL BILL REPORT

SSB 5548

C 88 L 22
Synopsis as Enacted

Brief Description: Concerning the uniform unregulated child custody transfer act.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Pedersen, Wagoner, Dhingra and Mullet; by request of Uniform Law Commission).

Senate Committee on Law & Justice
House Committee on Civil Rights & Judiciary

Background: It is unlawful for any person, partnership, society, association, or corporation, except the parents, to assume the permanent care and custody of a child. Unless otherwise permitted by court order or statute, it is unlawful for any parent to relinquish or transfer to another person, partnership, society, association, or corporation the permanent care and custody of any child for adoption or any other purpose. A violation of these prohibitions is a gross misdemeanor.

The Uniform Law Commission (ULC) is a state-supported, nonpartisan, nonprofit organization that drafts and proposes specific statutory language that may be adopted by states. In 2021, the ULC drafted the Uniform Unregulated Child Custody Transfer Act (Act) to prevent situations in which birth or adoptive parents would transfer custody of their child to another person outside of the child welfare system.

The Act provides a uniform legal framework to prohibit unregulated child custody transfers. An unregulated child custody transfer is a transfer by a parent or guardian of a child or an individual with whom a child has been placed for adoption that is performed without state agency or court oversight that assures the new custodian is safe and appropriate for the child. The provisions have not been adopted in any other state.

Summary: A parent, guardian, or individual with whom a child has been placed for adoption may transfer custody of the child to another person with intent to abandon the rights and responsibilities concerning the child only through adoption or guardianship, judicial award of custody, placement by or through a child-placing agency, other judicial or

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tribal action, or transfer of a newborn to a qualified person.

It is a gross misdemeanor for a parent or guardian with custody of a child, as well as an individual with whom a child has been placed for adoption, to transfer custody of a child to someone beyond family members and other specified categories of individuals if the parent, guardian, or individual with whom a child has been placed for adoption intends to abandon their rights and responsibilities regarding the child.

A person may not receive custody of a child, or act as an intermediary in a transfer of custody of child, if the person knows, or reasonably should know, the transfer is in violation of the prohibitions, unless a person notifies the Department of Children, Youth, and Families (DCYF) or law enforcement as soon as practicable after the transfer, or takes appropriate action to establish custody. A violation is a gross misdemeanor.

If DCYF has a reasonable basis to believe that a person has transferred or will transfer custody of a child in violation of the Act, DCYF must respond. The Act requires DCYF to prepare a report and to provide a copy to the United States Department of State when DCYF provides a child protective response for a child adopted or placed through an intercountry adoption. The disclosure of child welfare records to the United States Department of State is limited to only those confidential child welfare records that may assist the United States Department of State in informing the child's country of origin that the custody of the child has been transferred in an unregulated custody transfer and describing the child's welfare and plan for permanent placement of the child.

Unauthorized solicitation and advertising for the purpose of adopting or transferring, or finding a child to adopt or transfer in violation of the act constitutes an unfair or deceptive act or practice in trade or commerce.

The prohibitions of the Act apply to transfers of custody and unauthorized solicitations or advertisements on or after the effective date of this act.

Votes on Final Passage:

Senate	48	0
House	95	1

Effective: June 9, 2022