

SECOND REGULAR SESSION

HOUSE BILL NO. 2631

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAUSMAN.

5446H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 453, RSMo, by adding thereto twenty-two new sections relating to unregulated child custody transfers, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 453, RSMo, is amended by adding thereto twenty-two new sections, to be known as sections 453.700, 453.702, 453.704, 453.706, 453.708, 453.710, 453.712, 453.714, 453.716, 453.718, 453.720, 453.722, 453.724, 453.726, 453.728, 453.730, 453.732, 453.734, 453.736, 453.738, 453.740, and 453.742, to read as follows:

453.700. Sections 453.700 to 453.740 may be cited as the "Uniform Unregulated Child Custody Transfer Act".

453.702. In sections 453.700 to 453.740:

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

(2) "Child-placing agency" means a person with authority under other law of this state to identify or place a child for adoption. The term 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. The term 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 other law of this state;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (6) "Person" means an individual, estate, business or nonprofit entity, public
13 corporation, government or governmental subdivision, agency, or instrumentality, or
14 other legal entity;

15 (7) "Record" means information:

16 (a) Inscribed on a tangible medium; or

17 (b) Stored in an electronic or other medium and retrievable in perceivable form;

18 (8) "State" means a state of the United States, the District of Columbia, Puerto
19 Rico, the United States Virgin Islands, or any other territory or possession subject to the
20 jurisdiction of the United States. The term includes a federally recognized Indian tribe.

 453.704. Sections 453.700 to 453.740 do not apply to custody of an Indian child,
2 as defined in Section 4(4) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section
3 1903(4), as amended, to the extent custody is governed by the Indian Child Welfare Act
4 of 1978, 25 U.S.C. Sections 1901 through 1963, as amended.

 453.706. In sections 453.706 to 453.716:

2 (1) "Guardian" means a person recognized as a guardian under other law of this
3 state;

4 (2) "Intermediary" means a person that assists or facilitates a transfer of
5 custody of a child, whether or not for compensation.

 453.708. Sections 453.706 to 453.716 do not apply to a transfer of custody of a
2 child by a parent or guardian of the child to:

3 (1) A parent of the child;

4 (2) A stepparent of the child;

5 (3) An adult who is related to the child by blood, marriage, or adoption;

6 (4) An adult who, at the time of the transfer, had a close relationship with the
7 child or the parent or guardian of the child for a substantial period, and whom the
8 parent or guardian reasonably believes, at the time of the transfer, to be a fit custodian
9 of the child;

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

12 (6) A member of the child's customary family unit recognized by the child's
13 indigenous group under other law of this state.

 453.710. 1. Except as provided in subsection 2 of this section, a parent or
2 guardian of a child or an individual with whom a child has been placed for adoption
3 may not transfer custody of the child to another person with the intent, at the time of the
4 transfer, to abandon the rights and responsibilities concerning the child.

5 2. A parent or guardian of a child or an individual with whom a child has been
6 placed for adoption may transfer custody of the child to another person with the intent,

7 at the time of the transfer, to abandon the rights and responsibilities concerning the
8 child only through:

- 9 (1) Adoption or guardianship;
- 10 (2) Judicial award of custody;
- 11 (3) Placement by or through a child-placing agency;
- 12 (4) Other judicial or tribal action; or
- 13 (5) Safe place for newborns act of 2002 under section 210.950.

14 3. A person may not receive custody of a child, or act as an intermediary in a
15 transfer of custody of a child, if the person knows or reasonably should know the
16 transfer violates subsection 1 of this section. This prohibition does not apply if the
17 person, as soon as practicable after the transfer, notifies the children's division of the
18 transfer or takes appropriate action to establish custody under subsection 2 of this
19 section.

20 4. Violation of this section is a class B misdemeanor.

21 5. Violation of subsection 1 of this section is not established solely because a
22 parent or guardian that transfers custody of a child does not regain custody.

453.712. 1. If the children's division has a reasonable basis to believe that a
2 person has transferred or will transfer custody of a child in violation of subsection 1 of
3 section 453.710, the children's division may conduct a home visit as provided by other
4 law of this state and take appropriate action to protect the welfare of the child.

5 2. If the children's division conducts a home visit for a child adopted or placed
6 through an intercountry adoption, the children's divisions shall:

- 7 (1) Prepare a report on the welfare and plan for permanent placement of the
8 child; and
- 9 (2) Provide a copy to the United States Department of State.

10 3. Sections 453.700 to 453.740 do not prevent the children's division from taking
11 appropriate action under other law of this state.

453.714. 1. A person may not solicit or advertise to:

- 2 (1) Identify a person to which to make a transfer of custody in violation of
3 subsection 1 of section 453.710;
- 4 (2) Identify a child for a transfer of custody in violation of subsection 3 of section
5 453.710; or
- 6 (3) Act as an intermediary in a transfer of custody in violation of subsection 3 of
7 section 453.710.

8 2. Violation of this section is a class B misdemeanor.

453.716. A law enforcement agency may investigate a possible violation of
2 sections 453.706 to 453.716 and take legal action as provided by law of this state.

453.718. In sections 453.718 to 453.732, "prospective adoptive parent" means an individual who has been approved or permitted under other law of this state to adopt a child.

453.720. Sections 453.718 to 453.732 apply to placement for adoption of a child who:

- (1) Has been or is in foster or institutional care;
- (2) Previously has been adopted in a state;
- (3) Has been or is being adopted under the law of a foreign country;
- (4) Has come or is coming to a state from a foreign country to be adopted; or
- (5) Is not a citizen of the United States.

453.722. Within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent general adoption information. The information must address:

- (1) Possible physical, mental, emotional, and behavioral issues concerning:
 - (a) Identity, loss, and trauma that a child might experience before, during, or after adoption; and
 - (b) A child leaving familiar ties and surroundings;
- (2) The effect that access to resources, including health insurance, may have on the ability of an adoptive parent to meet the needs of a child;
- (3) Causes of disruption of an adoptive placement or dissolution of an adoption and resources available to help avoid disruption or dissolution; and
- (4) Prohibitions under sections 453.710 and 453.714.

453.724. 1. Except as prohibited by other law of this state, within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent information specific to the child that is known to or reasonably obtainable by the agency and material to the prospective adoptive parent's informed decision to adopt the child. The information must include:

- (1) The child's family, cultural, racial, religious, ethnic, linguistic, and educational background;
- (2) The child's physical, mental, emotional, and behavioral health;
- (3) Circumstances that might adversely affect the child's physical, mental, emotional, or behavioral health;
- (4) The child's medical history, including immunizations;
- (5) The medical history of the child's genetic parents and siblings;

14 **(6) The history of an adoptive or out-of-home placement of the child and the**
15 **reason the adoption or placement ended;**

16 **(7) The child's United States immigration status;**

17 **(8) Medical, therapeutic, and educational resources, including language-**
18 **acquisition training, available to the adoptive parent and child after placement for**
19 **adoption or adoption to assist in responding effectively to physical, mental, emotional,**
20 **or behavioral health issues; and**

21 **(9) Available records relevant to the information in subdivisions (1) through (8)**
22 **of this subsection.**

23 **2. If, before an adoption is finalized, additional information under subsection 1**
24 **of this section that is material to a prospective adoptive parent's informed decision to**
25 **adopt the child becomes known to or reasonably obtainable by the child-placing agency,**
26 **the agency shall provide the information to the prospective adoptive parent.**

27 **3. If, after an adoption is finalized, additional information under subsection 1 of**
28 **this section becomes known to the child-placing agency, the agency shall make a**
29 **reasonable effort to provide the information to the adoptive parent.**

453.726. 1. A child-placing agency placing a child for adoption shall provide or
2 **cause to be provided to the prospective adoptive parent guidance and instruction**
3 **specific to the child to help prepare the parent to respond effectively to needs of the child**
4 **that are known to or reasonably ascertainable by the agency.**

5 **2. The guidance and instruction under subsection 1 of this section must address,**
6 **if applicable:**

7 **(1) The potential effect on the child of:**

8 **(a) A previous adoption or out-of-home placement;**

9 **(b) Multiple previous adoptions or out-of-home placements;**

10 **(c) Trauma, insecure attachment, fetal alcohol exposure, or malnutrition;**

11 **(d) Neglect, abuse, drug exposure, or similar adversity;**

12 **(e) Separation from a sibling or significant caregiver; and**

13 **(f) A difference in ethnicity, race, or cultural identity between the child and the**
14 **prospective adoptive parent or other child of the parent;**

15 **(2) Information available from the federal government on the process for the**
16 **child to acquire United States citizenship; and**

17 **(3) Any other matter the child-placing agency considers material to the**
18 **adoption.**

19 **3. The guidance and instruction under subsection 1 of this section must be**
20 **provided:**

21 **(1) For adoption of a child residing in the United States, a reasonable time before**
22 **the adoption is finalized; or**

23 **(2) For an intercountry adoption, in accordance with federal law.**

453.728. On request of a child who was placed for adoption or the child's
2 **adoptive parent, the child-placing agency placing the child or the children's division**
3 **shall provide information about how to obtain financial assistance or support services:**

4 **(1) To assist the child or parent to respond effectively to adjustment, behavioral**
5 **health, and other challenges; and**

6 **(2) To help preserve the placement or adoption.**

453.730. 1. A law enforcement agency may investigate an allegation that a child-
2 **placing agency has failed to comply with sections 453.718 to 453.732 and commence an**
3 **action for injunctive or other relief or initiate an administrative proceeding against the**
4 **child-placing agency to enforce sections 453.718 to 453.732.**

5 **2. The children's division may initiate a proceeding to determine whether a**
6 **child-placing agency has failed to comply with sections 453.718 to 453.732. If the**
7 **children's divisions finds that the child-placing agency has failed to comply, the**
8 **children's division may suspend or revoke the agency's license or take other action**
9 **permitted by law of this state.**

453.732. The children's division may adopt rules under chapter 536 to
2 **implement sections 453.722, 453.724, and 453.728.**

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

453.736. Sections 453.700 to 453.740 modify, limit, or supersede the Electronic
2 **Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as**
3 **amended, but do not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize**
4 **electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).**

453.738. 1. Sections 453.706 to 453.716 apply to:

2 **(1) A transfer of custody on or after August 28, 2024; and**

3 **(2) Soliciting or advertising on or after August 28, 2024.**

4 **2. Sections 453.718 to 453.732 apply to placement of a child for adoption more**
5 **than sixty days after August 28, 2024.**

453.740. If a provision of sections 453.700 to 453.740 or its application to a
2 **person or circumstance is held invalid, the invalidity does not affect another provision**
3 **or application that can be given effect without the invalid provision.**

453.742. Sections 453.700 to 453.740 supplement the provisions under this
2 **chapter and chapter 210 for the transfer of custody of a child. To the extent the**
3 **provisions under this chapter or chapter 210 are inconsistent with sections 453.700 to**

4 **453.740, the provisions of sections 453.700 to 453.740 control regarding the transfer of**
5 **custody of a child.**

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