

UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

Key Provisions of Uniform Act	Current NC Law
<p>Section 202. Applicability This [article] does not apply to a transfer of custody of a child by a parent or [guardian] of the child to:</p> <ul style="list-style-type: none"> (1) a parent of the child; (2) a stepparent of the child; (3) an adult who is related to the child by blood, marriage,[or] adoption[, or other relationship recognized by other law 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;[or] (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 other law of this state]. <p>Section 203. Prohibited Custody Transfer</p> <p>(a) Except as provided in subsection (b), 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.</p> <p>(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:</p> <ul style="list-style-type: none"> (1) adoption or [guardianship]; (2) judicial award of custody; (3) placement by or through a child-placing agency; [or] (4) other judicial or tribal action[;][or] [(5) cite to the state’s safe haven law];[or] (6) . . .]. <p>(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 subsection (a). This prohibition does not apply if the person, as soon as practicable after the</p>	<p>§ 14-321.2. Prohibit unlawful transfer of custody of minor child.</p> <p>(a) It shall be unlawful for:</p> <ul style="list-style-type: none"> (1) A parent to effect or attempt to effect an unlawful transfer of custody of that parent's minor child. (2) A person to accept or attempt to accept custody pursuant to an unlawful transfer of custody of a minor child; except that it shall not be unlawful for a person to receive custody of a child from a parent who intends to effect an unlawful transfer of custody of that parent's minor child if the person promptly notifies law enforcement or child protective services in the county where the child resides or is found and promptly makes the child available to law enforcement or child protective services. (3) A person to advertise, recruit, or solicit, or to aid, abet, conspire, or seek the assistance of another to advertise, recruit, or solicit the unlawful transfer of custody of a minor child. <p>(b) Definitions. – As used in this section, the following definitions apply:</p> <ul style="list-style-type: none"> (1) "Minor child" means a child under the age of 18 and includes an adopted minor child, as defined in G.S. 48-1-101(14a). (2) "Parent" means a biological parent, adoptive parent, legal guardian, or legal custodian. (3) "Relative" means the child's other parent, stepparent, grandparent, adult sibling, aunt, uncle, first cousin, great aunt, great uncle, great grandparent, or a parent's first cousin. (4) "Unlawful transfer of custody" means the transfer of physical custody of a minor child, in willful violation of applicable adoption law or by grossly negligent omission in the care of the child, by the child's parent, without a court order or other authorization under law, to a person other than a relative or another individual having a substantial relationship with the child. Compensation in the form of money, property, or other item of value is not required in order for an unlawful transfer of custody to occur. Unlawful transfer of custody does not include any of the following: <ul style="list-style-type: none"> a. Placement of a minor child with a prospective adoptive parent in accordance with Part 2 of Article 3 of Chapter 48 of the General Statutes. b. A consent to adoption of a minor child in accordance with Part 6 of Article 3 of Chapter 48 of the General Statutes.

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<p>transfer, notifies the [child protection agency] or [law enforcement authority] of the transfer or takes appropriate action to establish custody under subsection (b).</p> <p>(d) Violation of this section is a [insert class of offense].</p> <p>(e) Violation of subsection (a) is not established solely because a parent or [guardian] that transfers custody of a child does not regain custody.</p>	<p>c. Relinquishment of a minor child in accordance with Part 7 of Article 3 of Chapter 48 of the General Statutes.</p> <p>d. Placement of a minor child in accordance with the Interstate Compact on the Placement of Children under Article 38 of Chapter 7B of the General Statutes or the Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption.</p> <p>e. Temporary transfer of physical custody of a minor child to an individual with a prior substantial relationship with the child for a specified period of time due to (i) the child's medical, mental health, educational, or recreational needs or (ii) the parent's inability to provide proper care or supervision for the minor child, which may be due to the parent's incarceration, military service, employment, medical treatment, incapacity, or other voluntary or involuntary absence.</p> <p>f. Transfer of physical custody of a minor child to a relative.</p> <p>g. Temporary transfer of physical custody of a minor child to a behavioral health facility or other health care provider, an educational institution, or a recreational facility by a parent for a specified period of time due to the child's medical, mental health, educational, or recreational needs.</p> <p>h. A voluntary foster care placement of the minor child made pursuant to an agreement between the minor child's parent and a county department of social services as described in G.S. 7B-910.</p> <p>i. Placement of a minor child with a prospective adoptive parent in substantial compliance with the applicable adoption laws of this State or of another state.</p> <p>(c) Any person who commits an offense under subsection (a) of this section is guilty of a Class A1 misdemeanor.</p> <p>(d) Any person who commits an offense under subsection (a) of this section that results in serious physical injury to the child is guilty of a Class G felony.</p>
<p>Section 204. Authority and Responsibility of [child protection agency]</p> <p>(a) If the [child protection agency] has [probable cause] [a reasonable basis] to believe that a person has transferred or will transfer custody of a child in violation of Section 203(a), the [agency] may conduct a home visit as provided by other law of this state and take appropriate action to protect the welfare of the child.</p>	<p>§ 7B-101. Definitions.</p> <p>As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:</p> <p>...</p> <p>(15) Neglected juvenile. – Any juvenile less than 18 years of age (i) who is found to be a minor victim of human trafficking under G.S. 14-43.15 or (ii) whose parent, guardian, custodian, or caretaker does not provide proper</p>

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<p>(b) If the [child protection agency] conducts a home visit for a child adopted or placed through an intercountry adoption, the [agency] shall:</p> <p>(1) prepare a report on the welfare and plan for permanent placement of the child; and</p> <p>(2) provide a copy to the United States Department of State.</p> <p>(c) This [act] does not prevent the [child protection agency] from taking appropriate action under other law of this state.</p>	<p>care, supervision, or discipline; or who has been abandoned; or who is not provided necessary medical care; or who is not provided necessary remedial care; or who lives in an environment injurious to the juvenile's welfare; or the custody of whom has been unlawfully transferred under G.S. 14-321.2; or who has been placed for care or adoption in violation of law. In determining whether a juvenile is a neglected juvenile, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of suspected abuse or neglect or lives in a home where another juvenile has been subjected to abuse or neglect by an adult who regularly lives in the home.</p> <p>....</p> <p>§ 7B-302. Assessment by director; military affiliation; access to confidential information; notification of person making the report.</p> <p>(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough assessment, using either a family assessment response or an investigative assessment response, in order to ascertain the facts of the case, including collecting information concerning the military affiliation of the parent, guardian, custodian, or caretaker of the juvenile alleged to have been abused or neglected, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the director shall initiate the assessment within 72 hours following receipt of the report. When the report alleges abandonment of a juvenile or unlawful transfer of custody under G.S. 14-321.2, the director shall immediately initiate an assessment. When the report alleges abandonment, the director shall also take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The assessment and evaluation shall include a visit to the place where the juvenile resides, except when the report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes. When a report alleges abuse or neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a visit to the place where the juvenile resides is not</p>

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	<p>required. When the report alleges abandonment, the assessment shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child.</p> <p>....</p>
<p>Section 205. Prohibited Soliciting or Advertising (a) A person may not solicit or advertise to: (1) identify a person to which to make a transfer of custody in violation of Section 203(a); (2) identify a child for a transfer of custody in violation of Section 203(c); or (3) act as an intermediary in a transfer of custody in violation of Section 203(c). (b) Violation of this section is a [insert class of offense].</p>	<p>See G.S. 14-321.2(a)(3).</p>
<p>Section 303. General Adoption Information 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 203 and 205.</p>	<p>No comparable statutory provision.</p>
<p>Section 304. Information About Child (a) 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</p>	<p>§ 48-3-205. Disclosure of background information. (a) Notwithstanding any other provision of law, before placing a minor for adoption, an individual or agency placing the minor, or the individual's agent, must compile and provide to the prospective adoptive parent a written document containing the following information:</p>

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<p>material to the prospective adoptive parent’s informed decision to adopt the child. The information must include:</p> <p>(1) the child’s family, cultural, racial, religious, ethnic, linguistic, and educational background;</p> <p>(2) the child’s physical, mental, emotional, and behavioral health;</p> <p>(3) circumstances that might adversely affect the child’s physical, mental, emotional, or behavioral health;</p> <p>(4) the child’s medical history, including immunizations;</p> <p>(5) the medical history of the child’s genetic parents and siblings;</p> <p>(6) the history of an adoptive or out-of-home placement of the child and the reason the adoption or placement ended;</p> <p>(7) the child’s United States immigration status;</p> <p>(8) medical, therapeutic, and educational resources, including language-acquisition training, available to the adoptive parent and child after placement for adoption or adoption to assist in responding effectively to physical, mental, emotional, or behavioral health issues; and</p> <p>(9) available records relevant to the information in paragraphs (1) through (8).</p> <p>(b) If, before an adoption is finalized, additional information under subsection (a) that is material to a prospective adoptive parent’s informed decision to adopt the child becomes known to or reasonably obtainable by the child-placing agency, the agency shall provide the information to the prospective adoptive parent.</p> <p>(c) If, after an adoption is finalized, additional information under subsection (a) becomes known to the child-placing agency, the agency shall make a reasonable effort to provide the information to the adoptive parent.</p>	<p>(1) The date of the birth of the minor and the minor's weight at birth and any other reasonably available nonidentifying information about the minor that is relevant to the adoption decision or to the minor's development and well being;</p> <p>(2) Age of the biological parents in years at the time of the minor's birth;</p> <p>(3) Heritage of the biological parents, which shall consist of nationality, ethnic background, and race;</p> <p>(4) Education of the biological parents, which shall be the number of years of school completed by the biological parents at the time of the minor's birth; and</p> <p>(5) General physical appearance of the biological parents.</p> <p>In addition, the written document must also include all reasonably available nonidentifying information about the health of the minor, the biological parents, and other members of the biological parents' families that is relevant to the adoption decision or to the minor's health and development. This health related information shall include each such individual's present state of physical and mental health, health and genetic histories, and information concerning any history of emotional, physical, sexual, or substance abuse. This health related information shall also include an account of the prenatal and postnatal care received by the minor. The information described in this subsection, if known, shall, upon written request of the minor, be made available to the minor upon the minor reaching age 18 or upon the minor's marriage or emancipation.</p> <p>(b) Information provided under this section, or any information directly or indirectly derived from such information, may not be used against the provider or against an individual described in subsection (a) of this section who is the subject of the information in any criminal action or any civil action for damages. In addition, information provided under this section may not be admitted in evidence against the provider or against an individual described in subsection (a) of this section who is the subject of the information in any other action or proceeding.</p> <p>(c) The agency placing the minor shall receive and preserve any additional health related information obtained after the preparation of the document described in subsection (a) of this section.</p>

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	(d) The Division shall develop and make available forms designed to collect the information described in subsection (a) of this section. However, forms reasonably equivalent to those provided by the Division may be substituted.
<p>Section 305. Guidance and Instruction</p> <p>(a) A child-placing agency placing a child for adoption shall provide or cause to be provided to the prospective adoptive parent guidance and instruction specific to the child to help prepare the parent to respond effectively to needs of the child that are known to or reasonably ascertainable by the agency.</p> <p>(b) The guidance and instruction under subsection (a) must address, if applicable:</p> <p>(1) the potential effect on the child of:</p> <p>(A) a previous adoption or out-of-home placement;</p> <p>(B) multiple previous adoptions or out-of-home placements;</p> <p>(C) trauma, insecure attachment, fetal alcohol exposure, or malnutrition;</p> <p>(D) neglect, abuse, drug exposure, or similar adversity;</p> <p>(E) separation from a sibling or significant caregiver; and</p> <p>(F) a difference in ethnicity, race, or cultural identity between the child and the prospective adoptive parent or other child of the parent;</p> <p>(2) information available from the federal government on the process for the child to acquire United States citizenship; and</p> <p>(3) any other matter the child-placing agency considers material to the adoption.</p> <p>(c) The guidance and instruction under subsection (a) must be provided:</p> <p>(1) for adoption of a child residing in the United States, a reasonable time before the adoption is finalized; or</p> <p>(2) for an intercountry adoption, in accordance with federal law.</p>	No comparable statutory provision.
<p>Section 306. Information About Financial Assistance and Support Services</p> <p>On request of a child who was placed for adoption or the child's adoptive parent, the child-placing agency placing the child or the [child protection agency] shall provide information about how to obtain financial assistance or support services:</p> <p>(1) to assist the child or parent to respond effectively to adjustment, behavioral health, and other challenges; and</p>	<p>§ 48-1-110. Support for adoptive families at risk of dissolution.</p> <p>The Department of Health and Human Services shall develop a program to provide needed supports to families at risk of adoption dissolutions in order to keep families together.</p>

Staff Note: Certain comparative language is highlighted for ease in locating it.

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(2) to help preserve the placement or adoption.	