

**Background:**

In late 2013, a Reuters' investigation on the practice of parents "rehoming" their adopted children through online forums resulted in public outcry. This practice, which is more formally known as the unregulated transfer of custody of children, occurs in the shadows of child welfare oversight. An unregulated child custody transfer occurs when a parent, guardian, or custodian of a child or an individual with whom a child has been placed for adoption transfers custody of the child without state, county, or court oversight to assure the new custodian is safe and appropriate for the child. While the extent of the practice is impossible to determine precisely, reported cases suggest that it occurs throughout the United States.

**Problem:**

Unregulated custody transfers are a dangerous practice that place vulnerable children at risk of harm. Currently, there is limited authority for state and local child protection authorities across the country to take action in response to reports of unregulated child custody transfers and the widely varying responses from state to state when an unregulated child custody transfer situation is reported. Removing this barrier is critical to current and future efforts to stop unregulated child custody transfers.

An unregulated custody transfer to an unrelated person who is unknown to the child might expose the child to a transferee who is unfit or unable to care for the child. It might cause or exacerbate existing psychological problems for the child. The transferee might not have the authority required by law to make everyday decisions regarding the child's health, education, and welfare. In some cases, the child might be exposed to a child molester or sex trafficker.

**Solution:**

Under this legislation:

- 1) A parent, guardian, custodian, or an individual with whom a child has been placed for adoption is prohibited from transferring custody to someone beyond family members and certain other specified categories of individuals with the intent to abandon the rights and responsibilities regarding the child.
- 2) A prospective transferee is prohibited from receiving custody of a child in an unregulated transfer unless the person notifies the Colorado Department of Human Services or takes appropriate action to establish custody under existing law (i.e., adoption, guardianship, etc.).
- 3) Advertising or solicitation (social media, chatrooms, etc.) to identify a prospective transferee of a child, to find a child, or to facilitate a child's transfer is prohibited. This prohibition on advertising does not prevent the application of existing Colorado law prohibiting advertising for adoption purposes (§ 19-5-213.5).
- 4) The Colorado Department of Human Services, the county departments of human or social services, and law enforcement have the authority to investigate alleged transfers of child custody in violation of the act, to enforce the act and other state law, and to punish violators.
- 5) Child placement agencies must provide prospective adoptive parents with information and guidance regarding adoptions that have a heightened degree of risk for a disruption or dissolution.

## The Uniform Unregulated Child Custody Transfer Act

Sponsors: Rep. Joseph, Rep. Weinberg, Sen. Exum

Protecting children who are the most vulnerable in our community is our duty.

The **Uniform Unregulated Child Custody Transfer Act** provides a needed regulatory framework to deal with two issues: (1) prohibiting the unregulated custody transfer of children, and (2) provision of information and guidance to prospective adoptive parents regarding adoptions that have a heightened degree of risk for a disruption or dissolution.

- The act addresses certain child custody transfers that might present **dangers** of various kinds to a child.
- The act **protects children** by prohibiting a parent from transferring custody of a child to someone beyond family members and certain other specified categories of individuals if the parent intends to abandon the parent's rights and responsibilities regarding the child.



- The act is **consistent with recommendations from a U.S. Working Group** composed of representatives from several federal agencies, state child welfare organizations, and the National Association of Attorneys General. This act is supported by the U.S. Department of State.

- The act provides the state department of human services, the county departments of human or social services, and law enforcement with **authority to investigate** alleged transfers in violation of the act, to enforce the act and other state law, and to **punish violators**.

- The act **supports families** by providing information and training to prospective adoptive parent regarding the adoption of children with special needs.
- The act has been enacted in **Washington** and **Utah** and introduced in several other state legislatures.
- This bill is well-researched and studied and has been recommended by the **Colorado Commission on Uniform State Laws**, a joint year-round committee of the Colorado General Assembly.





United States Department of State

Washington, D.C. 20520

## Statement of Support for the Uniform Law Commission's

### Unregulated Child Custody Transfer Act

February 1, 2023

The Department of State appreciates and supports the Uniform Law Commission's attention and work to address the problem of unregulated custody transfer (UCT). Since 2013, we have discussed this issue with Congress; other federal agencies, including the Departments of Health and Human Services, Homeland Security, Justice, and Education; the National Association of Attorneys General; State authorities, including those involved in child protection, adoption, and foster care; the Association of Administrators for the Interstate Compact on the Placement of Children (AAICPC); adoption service providers; and advocacy groups throughout the United States. In addition, we regularly engage on this issue at The Hague Conference on Private International Law and with foreign government authorities, who raise concerns about UCT's impact on adopted children and the future of intercountry adoption programs in the United States if safeguards are not put in place. Representatives from the Department's Bureau of Consular Affairs' Office of Children's Issues and the Office of the Legal Adviser provided subject matter expertise on intercountry adoption and have participated as observers to the Uniform Law Commission's work to develop the Unregulated Child Custody Transfer Act, approved in September 2021 and now under consideration in many State legislatures interested in the protection and best interests of children.

UCT is a dangerous practice that places vulnerable children at risk of harm. Recognizing the children adopted through the intercountry process may have specific vulnerabilities for UCT, the Department supports a uniform state law that would protect children when a parent places a child in the home of an individual not related or well known to the family, without the oversight and approval of appropriate state and local authorities. The Department understands that critical barriers to current and future efforts to respond to UCT include the limited authority for state child protection authorities to take action in response to reports of UCT and the widely varying responses from state to state when a UCT situation is reported. The Department believes that a uniform state law could contribute to reducing these barriers.

Since UCT is intentionally kept in the shadows, there is very little reliable data on the children in the United States impacted by this practice. Nonetheless, based on anecdotal information, the Department believes children adopted internationally are at high risk of UCT. Moreover, in connection with reports of UCT, several foreign countries have expressed concerns about the safety of children adopted through intercountry adoption, and addressing these concerns may help to facilitate the continuation of intercountry adoption programs. The Department's Office of Children's Issues' FY 2016 and 2017 Annual Reports to Congress noted UCT as one of the three primary barriers to the viability of intercountry adoption in the United States.

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**U.S. Department of State**

