



HOUSE BILL 424: Prohibit Unlawful Custody Transfer of Child.

2015-2016 General Assembly

Committee:		Date:	August 12, 2016
Introduced by:		Prepared by:	Susan Sitze
Analysis of:	S.L. 2016-115		Staff Attorney

OVERVIEW: *S.L. 2016-115 creates a new law in the statutes governing the protection of minors to prohibit the unlawful transfer of custody of a minor child and provide a Class A1 misdemeanor for general violation of the offense, as well as a Class G felony for a violation that results in serious physical injury to the child. The act also makes general conforming changes, clarifies that the prohibition against advertising adoptions applies to communications via email and other internet communications, and directs the Department of Health and Human Services to develop support programs for families at risk of adoption dissolutions.*

The new criminal offense and conforming statutory changes become effective December 1, 2016, and apply to offenses committed on or after that date. The clarification on advertising adoptions and the remainder of the act became effective July 28, 2016.

BILL ANALYSIS:

S.L. 2016-115 creates a new G.S. 14-321.2 in the criminal law to do the following:

- Make it a criminal offense for:
 - A parent to effect or attempt to effect an unlawful transfer of custody of that parent's minor child.
 - A person to accept or attempt to accept custody pursuant to an unlawful custody transfer except when the person promptly notifies law enforcement or child protective services.
 - A person to advertise, recruit, or solicit, or aid, abet, conspire, or seek the assistance of another to effect the unlawful custody transfer of a minor.
- Define "unlawful transfer of custody" as the transfer of physical custody of a minor child by the child's parent, without a court order or other authorization under law, to a person other than a relative or other individual having a substantial relationship with the child.
 - "Relative" is defined as 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.
- Specify that compensation is not required for an unlawful custody transfer to occur.
- Provide that unlawful custody transfer does not include placement of a minor pursuant to specified statutes, temporary placement of a child under specified circumstances, or placement with a prospective adoptive parent consistent with applicable adoption laws.
- Make a violation of the offense a Class A1 misdemeanor; however, a violation that results in serious physical injury to the child is punishable as a Class G felony.

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The act also amends G.S. 48-10-101(b) to clarify that the prohibition against advertising adoptions by "other public medium" includes email, the Internet, and other similar forms of communication.

The act makes conforming changes to statutes in the Juvenile Code and directs the Department of Health and Human Services to develop a program to provide needed supports to families at risk of adoption dissolutions in order to keep families together.

EFFECTIVE DATE: The new criminal offense and conforming statutory changes become effective December 1, 2016, and apply to offenses committed on or after that date. The clarification on advertising adoptions and the remainder of the act became effective July 28, 2016.