

## BILL ANALYSIS

Senate Research Center

H.B. 834  
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State Affairs  
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Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 834 amends the Family Code to prohibit a parent, managing conservator, or guardian of an adopted child from transferring permanent physical custody of the child to any person who is not a relative or stepparent of the child or an adult who has a significant and long-standing relationship with the child unless the parent, managing conservator, or guardian files a petition with a court of competent jurisdiction requesting the transfer of custody and the court approves the petition.

H.B. 834 creates an offense for the unregulated custody transfer of an adopted child under Chapter 162, Family Code. "Unregulated custody transfer" would be defined as a transfer of permanent physical custody of an adopted child to someone other than a relative, stepparent, or other adult with whom the child had a significant and long-standing relationship without first obtaining court approval.

- The offense applies to an individual who conducts, facilitates, or participates in an unregulated transfer of an adopted child. The offense would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000). It would enhance the offense to a second degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the child was transferred with the intent to commit a sexual or human trafficking offense.
- The offense does not apply to:
  - The placement of an adopted child with a licensed child-placing agency, the Department of Family and Protective Services (DFPS), or an adult relative, stepparent, or other adult with whom the child had a significant and long-lasting relationship;
  - The placement of an adopted child by DFPS or a licensed childplacing agency;
  - The temporary placement of an adopted child for a designated short-term period due to certain circumstances, such as military service or medical treatment;
  - The placement of an adopted child in another state according to existing law; or
  - The voluntary delivery of an adopted child in accordance with existing law.
  - A licensed child-placing agency that is identified in the advertisement as a licensed child-placing agency.
- H.B. 834 extends the current offense of advertising for placement of a child for adoption to include advertising any other form of permanent physical custody of the child. (Class A misdemeanor, unless prior conviction)

Finally, H.B. 834 requires licensed child-placing agencies to provide information about community services and supporting resources to adoptive parents, as well as the options available to adoptive parents if they were unable to care for the adopted child.

H.B. 834 amends current law relating to regulating the custody transfer of an adopted child and creates a criminal offense.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 162, Family Code, by adding Section 162.026, as follows:

Sec. 162.026. **REGULATED CUSTODY TRANSFER OF ADOPTED CHILD.** Prohibits a parent, managing conservator, or guardian of an adopted child from transferring permanent physical custody of the child to any person who is not a relative or stepparent of the child or an adult who has a significant and long-standing relationship with the child unless the parent, managing conservator, or guardian files a petition with a court of competent jurisdiction requesting a transfer of custody and the court approves the petition.

SECTION 2. Amends Subchapter G, Chapter 162, Family Code, by adding Section 162.603, as follows:

Sec. 162.603. **POST-ADOPTION SUPPORT INFORMATION PROVIDED BY LICENSED CHILD-PLACING AGENCIES.** Requires a licensed child-placing agency to provide prospective adoptive parents with information regarding the community services and other resources available to support a parent who adopts a child and the options available to the adoptive parent if the parent is unable to care for the adopted child.

SECTION 3. Amends Chapter 25, Penal Code, by adding Section 25.081, as follows:

Sec. 25.081. **UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD.** (a) Defines "adopted child" and "unregulated custody transfer."

(b) Provides that, except as otherwise provided by this section, a person commits an offense if the person knowingly conducts an unregulated custody transfer of an adopted child or facilitates or participates in the unregulated custody transfer of an adopted child, including by transferring, recruiting, harboring, transporting, providing, soliciting, or obtaining an adopted child for that purpose.

(c) Provides that an offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor commits the offense with intent to commit an offense under Section 20A.02 (Trafficking of Persons), 43.02 (Prostitution), 43.05 (Compelling Prostitution), 43.25 (Sexual Performance by a Child), 43.251 (Employment Harmful to Children), or 43.26 (Possession or Promotion of Child Pornography).

(d) Provides that this section does not apply to certain placements of an adopted child or certain voluntary delivery of an adopted child.

SECTION 4. Amends Section 25.09(a), Penal Code, to provide that a person commits an offense if the person advertises in the public media that the person will place, provide, or obtain a child for adoption or any other form of permanent physical custody of the child, rather than if the person advertises in the public media that the person will place a child for adoption or will provide or obtain a child for adoption.

SECTION 5. Makes application of the change in law made by this Act to Section 25.09, Penal Code, prospective.

SECTION 6. Effective date: September 1, 2017.