

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 104

Short Title: GSC Unif. Unreg. Child Cust. Trfr. Act/Art. 3. (Public)

Sponsors: Representative Davis.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

February 14, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT ARTICLE THREE OF THE UNIFORM UNREGULATED CHILD
3 CUSTODY TRANSFER ACT, AS RECOMMENDED BY THE GENERAL STATUTES
4 COMMISSION.

5 The General Assembly of North Carolina enacts:

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7 **PART I. ARTICLE THREE OF THE UNIFORM UNREGULATED CHILD CUSTODY**
8 **TRANSFER ACT**

9 **SECTION 1.** Article 3 of Chapter 48 of the General Statutes is amended by adding
10 a new Part to read:

11 "Part 2A. Information and Guidance.

12 **"§ 48-3-230. Title and purpose.**

13 This Part consists of and may be cited as the Information and Guidance Provisions of the
14 Uniform Unregulated Child Custody Transfer Act. The purpose of this Part is to prevent the
15 unlawful transfer of custody of minors, as prohibited by G.S. 14-321.2, by better preparing
16 adoptive parents for issues that may arise when caring for an adopted minor.

17 **"§ 48-3-231. Definitions.**

18 For the purposes of this Part, the following definitions apply:

- 19 (1) Intercountry adoption. – An adoption or placement for adoption of a minor
20 who resides in a foreign country at the time of adoption or placement. The
21 term includes an adoption finalized in the minor's country of residence or in a
22 state.
23 (2) Parent. – An individual recognized as a parent under other law of this State.
24 (3) Prospective adoptive parent. – An individual approved or permitted under
25 other law of this State to adopt a minor.
26 (4) Record. – Information inscribed on a tangible medium or stored in an
27 electronic or other medium and retrievable in perceivable form.

28 **"§ 48-3-232. Scope.**

29 This Part applies to placement for adoption of a minor to whom any of the following applies:

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

35 **"§ 48-3-233. General adoption information.**



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1 Within a reasonable time before an agency places a minor for adoption with a prospective
2 adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive
3 parent general adoption information. The information shall address all of the following:

- 4 (1) Possible physical, mental, emotional, and behavioral issues concerning all of
5 the following:
 - 6 a. Identity, loss, and trauma that a minor might experience before,
7 during, or after adoption.
 - 8 b. A minor leaving familiar ties and surroundings.
- 9 (2) The effect that access to resources, including health insurance, may have on
10 the ability of an adoptive parent to meet the needs of a minor.
- 11 (3) Causes of disruption of an adoptive placement or dissolution of an adoption
12 and resources available to help avoid disruption or dissolution.
- 13 (4) Criminal prohibitions under G.S. 14-321.2.

14 **"§ 48-3-234. Nonidentifying information about minor.**

15 (a) Within a reasonable time before an agency places a minor to whom this Part applies
16 for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided
17 to the prospective adoptive parent nonidentifying information specific to the minor, in addition
18 to information provided pursuant to G.S. 48-3-205, that is known to or reasonably obtainable by
19 the agency and material to the prospective adoptive parent's informed decision to adopt the minor.
20 To the extent that it is not already being provided under G.S. 48-3-205, the nonidentifying
21 information shall include all of the following:

- 22 (1) The minor's family, cultural, racial, religious, ethnic, linguistic, and
23 educational background.
- 24 (2) The minor's physical, mental, emotional, and behavioral health.
- 25 (3) Circumstances that might adversely affect the minor's physical, mental,
26 emotional, or behavioral health.
- 27 (4) The minor's medical history, including immunizations.
- 28 (5) The medical history of the minor's biological parents and siblings.
- 29 (6) The history of an adoptive or out-of-home placement of the minor and the
30 reason the adoption or placement ended.
- 31 (7) The minor's United States immigration status.
- 32 (8) Medical, therapeutic, and educational resources, including
33 language-acquisition training, available to the adoptive parent and minor after
34 placement for adoption or adoption to assist in responding effectively to
35 physical, mental, emotional, or behavioral health issues.

36 (b) Subject to the requirements of Article 9 of this Chapter, an agency shall include
37 available records relevant to the information in subdivisions (1) through (8) of subsection (a) of
38 this section when providing the information, regardless of whether the information is provided
39 pursuant to subsection (a) of this section or G.S. 48-3-205.

40 (c) If, before an adoption is finalized, additional information under subsection (a) of this
41 section that is material to a prospective adoptive parent's informed decision to adopt the minor
42 becomes known to or reasonably obtainable by the agency, the agency shall provide the
43 information to the prospective adoptive parent.

44 (d) If, after an adoption is finalized, additional information under subsection (a) of this
45 section becomes known to the agency, the agency shall make a reasonable effort to provide the
46 information to the adoptive parent.

47 **"§ 48-3-235. Guidance and instruction.**

48 (a) An agency placing a minor for adoption shall provide or cause to be provided to the
49 prospective adoptive parent guidance and instruction specific to the minor to help prepare the
50 parent to respond effectively to needs of the minor that are known to or reasonably ascertainable
51 by the agency.

1 (b) The guidance and instruction under subsection (a) of this section shall address, if
 2 applicable, all of the following:

3 (1) The potential effect on the minor of all of the following:

4 a. A previous adoption or out-of-home placement.

5 b. Multiple previous adoptions or out-of-home placements.

6 c. Trauma, insecure attachment, fetal alcohol exposure, or malnutrition.

7 d. Neglect, abuse, drug exposure, or similar adversity.

8 e. Separation from a sibling or significant caregiver.

9 f. A difference in ethnicity, race, or cultural identity between the minor
 10 and the prospective adoptive parent or other minor of the parent.

11 (2) Information available from the federal government on the process for the
 12 minor to acquire United States citizenship.

13 (3) Any other matter the agency considers material to the adoption.

14 (c) The guidance and instruction under subsection (a) of this section shall be provided as
 15 follows:

16 (1) For adoption of a minor residing in the United States, a reasonable time before
 17 the adoption is finalized.

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

19 **"§ 48-3-236. Information about financial assistance and support services.**

20 Consistent with the purposes of G.S. 48-1-110, on request of a minor who was placed for
 21 adoption or the minor's adoptive parent, the agency placing the minor or the Department of Health
 22 and Human Services shall provide information about how to obtain financial assistance or
 23 support services as follows:

24 (1) To assist the minor or parent to respond effectively to adjustment, behavioral
 25 health, and other challenges.

26 (2) To help preserve the placement or adoption.

27 **"§ 48-3-237. Agency compliance.**

28 (a) The Department of Health and Human Services may investigate an allegation that an
 29 agency has failed to comply with this Part and may commence an action for injunctive or other
 30 relief or initiate an administrative proceeding against the agency to enforce this Part.

31 (b) The Department of Health and Human Services may initiate a proceeding to
 32 determine whether an agency has failed to comply with this Part. If the Department of Health
 33 and Human Services finds that the agency has failed to comply, the Department may suspend or
 34 revoke the agency's license or take other action permitted by law of this State.

35 **"§ 48-3-238. Uniformity of application and construction.**

36 In applying and construing this Part, a court shall consider the promotion of uniformity of the
 37 law among jurisdictions that enact Article 3 of the Uniform Unregulated Child Custody Transfer
 38 Act.

39 **"§ 48-3-239. Relation to Electronic Signatures in Global and National Commerce Act.**

40 This Part modifies, limits, or supersedes the Electronic Signatures in Global and National
 41 Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. §
 42 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. § 7003(b)."

44 **PART II. CLARIFYING CHANGE**

45 **SECTION 2.** G.S. 48-3-205 reads as rewritten:

46 **"§ 48-3-205. Disclosure of background information.**

47 (a) ~~Notwithstanding any other provision of law, before~~ Before placing a minor for
 48 adoption, an individual or agency placing the minor, or the individual's agent, ~~must~~ shall compile
 49 and provide to the prospective adoptive parent a written document containing all of the following
 50 information:

- 1 (1) The date of the birth of the minor and the minor's weight at birth and any other
2 reasonably available nonidentifying information about the minor that is
3 relevant to the adoption decision or to the minor's development and
4 ~~well-being;~~well-being.
- 5 (2) Age of the biological parents in years at the time of the minor's ~~birth;~~birth.
- 6 (3) Heritage of the biological parents, ~~which shall consist~~ consisting of
7 nationality, ethnic background, and ~~race;~~race.
- 8 (4) Education of the biological parents, ~~which shall be consisting~~ of the number
9 of years of school completed by the biological parents at the time of the
10 minor's ~~birth;~~ and birth.
- 11 (5) General physical appearance of the biological parents.

12 In addition, the written document ~~must~~ shall also include all reasonably available nonidentifying
13 information about the health of the minor, the biological parents, and other members of the
14 biological parents' families that is relevant to the adoption decision or to the minor's health and
15 development. This health-related information shall include each ~~such~~ individual's present state
16 of physical and mental health, health and genetic histories, and information concerning any
17 history of emotional, physical, sexual, or substance abuse. This health-related information shall
18 also include an account of the prenatal and postnatal care received by the minor. The information
19 described in this subsection, if known, shall, upon written request of the minor, be made available
20 to the minor upon the minor reaching age 18 or upon the minor's marriage or emancipation.

21 (b) Information provided under this section, or any information directly or indirectly
22 derived from ~~such~~ the information, ~~may~~ shall not be used against the provider or against an
23 individual described in subsection (a) of this section who is the subject of the information in any
24 criminal action or any civil action for damages. In addition, information provided under this
25 section ~~may~~ shall not be admitted in evidence against the provider or against an individual
26 described in subsection (a) of this section who is the subject of the information in any other action
27 or proceeding.

28 (c) The agency placing the minor shall receive and preserve any additional health-related
29 information obtained after the preparation of the document described in subsection (a) of this
30 section.

31 (d) The Division shall develop and make available forms designed to collect the
32 information described in subsection (a) of this section. However, forms reasonably equivalent to
33 those provided by the Division may be substituted."
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35 **PART III. SEVERABILITY, EFFECTIVE DATE, AND APPLICABILITY**

36 **SECTION 3.(a)** If a provision of this act or its application to a person or
37 circumstance is held invalid, the invalidity does not affect another provision or application that
38 can be given effect without the invalid provision.

39 **SECTION 3.(b)** The Revisor of Statutes shall cause to be printed, as annotations to
40 the published General Statutes, all relevant portions of the Official Comments to Article 3 of the
41 Uniform Unregulated Child Custody Transfer Act and all explanatory comments of the drafters
42 of this act as the Revisor may deem appropriate.

43 **SECTION 3.(c)** This act is effective when it becomes law and applies to placement
44 of a minor for adoption beginning 60 days after the effective date of this act.