

117TH CONGRESS
1ST SESSION

S. 397

To amend the Child Abuse Prevention and Treatment Act to include an act of unregulated custody transfer in the definition of child abuse and neglect, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2021

Ms. KLOBUCHAR (for herself and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Child Abuse Prevention and Treatment Act to include an act of unregulated custody transfer in the definition of child abuse and neglect, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Home Act of
5 2021”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that:

1 (1) Adopted children may be most at risk of ex-
2 periencing an unregulated custody transfer because
3 the challenges associated with adoptions, including
4 the child's mental health needs and the difficulties
5 many families face in acquiring support services,
6 may lead families to seek out unregulated custody
7 transfers.

8 (2) Many adopted children experience trauma,
9 and the disruption and placement in another home
10 by unregulated custody transfer creates additional
11 trauma and instability for the child.

12 (3) Children who experience an unregulated
13 custody transfer may be placed with families who
14 have not completed required child welfare or crimi-
15 nal background checks or clearances.

16 (4) Social services agencies and courts are often
17 unaware of the placement of children through un-
18 regulated custody transfer and therefore do not con-
19 duct assessments on the child's safety and well-being
20 in such placements.

21 (5) Such lack of placement oversight places a
22 child at risk for future abuse and increases the like-
23 lihood that the child may experience—

24 (A) physical, sexual, or emotional abuse or
25 neglect;

1 (B) contact with unsafe adults or youth;
 2 and

3 (C) exposure to unsafe or isolated environ-
 4 ments.

5 (6) The caregivers with whom a child is placed
 6 through unregulated custody transfer often have no
 7 legal responsibility with respect to such child, plac-
 8 ing the child at risk for additional unregulated cus-
 9 tody transfers.

10 (7) Such caregivers also may not have complete
 11 records, including birth, medical, or immigration
 12 records.

13 (8) A child adopted through intercountry adop-
 14 tion may be at risk of not acquiring United States
 15 citizenship if an unregulated custody transfer occurs
 16 before the adoptive parents complete all necessary
 17 steps to finalize the adoption of such child.

18 (9) Engaging in, or offering to engage in, un-
 19 regulated custody transfer is a form of child abuse.

20 **SEC. 3. TREATMENT OF UNREGULATED CUSTODY TRANS-**
 21 **FER.**

22 (a) IN GENERAL.—Section 3 of the Child Abuse Pre-
 23 vention and Treatment Act (42 U.S.C. 5101 note) is
 24 amended—

25 (1) in paragraph (2)—

1 (A) by striking “or an act or failure” and
 2 inserting “an act or failure”; and

3 (B) by inserting “, or an unregulated cus-
 4 tody transfer” after “serious harm”;

5 (2) in paragraph (7), by striking “; and” and
 6 inserting a semicolon;

7 (3) in paragraph (8), by striking the period at
 8 the end and inserting “; and”; and

9 (4) by adding at the end the following new
 10 paragraph:

11 “(9) the term ‘unregulated custody transfer’
 12 means the abandonment of a child by the child’s
 13 parent, legal guardian, or a person or entity acting
 14 on behalf, and with the consent, of such parent or
 15 guardian—

16 “(A) by placing a child with a person who
 17 is not—

18 “(i) the child’s parent, step-parent,
 19 grandparent, adult sibling, adult uncle or
 20 aunt, legal guardian, or other adult rel-
 21 ative;

22 “(ii) a friend of the family who is an
 23 adult and with whom the child is familiar;
 24 or

1 “(iii) a member of the federally recog-
 2 nized Indian tribe of which the child is also
 3 a member;

4 “(B) with the intent of severing the rela-
 5 tionship between the child and the parent or
 6 guardian of such child; and

7 “(C) without—

8 “(i) reasonably ensuring the safety of
 9 the child and permanency of the placement
 10 of the child, including by conducting an of-
 11 ficial home study, background check, and
 12 supervision; and

13 “(ii) transferring the legal rights and
 14 responsibilities of parenthood or guardian-
 15 ship under applicable Federal and State
 16 law to a person described in subparagraph
 17 (A).”.

18 (b) TECHNICAL AMENDMENT.—Paragraph (5) of
 19 section 3 of the Child Abuse Prevention and Treatment
 20 Act (42 U.S.C. 5101 note) is amended by striking “450b”
 21 and inserting “5304”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect on the date that is 1 year
 24 after the date of the enactment of this section.

1 **SEC. 4. REPORT AND GUIDANCE ON UNREGULATED CUS-**
 2 **TODY TRANSFERS.**

3 Section 204 of the Child Abuse Prevention and
 4 Treatment and Adoption Reform Act of 1978 (42 U.S.C.
 5 5114) is amended to read as follows:

6 **“SEC. 204. REPORT AND GUIDANCE ON UNREGULATED CUS-**
 7 **TODY TRANSFERS.**

8 “(a) REPORT TO CONGRESS.—

9 “(1) IN GENERAL.—Not later than 180 days
 10 after the date of the enactment of this section, the
 11 Secretary, in consultation with the Secretary of
 12 State, shall provide to the Committee on Education
 13 and Labor of the House of Representatives, the
 14 Committee on Ways and Means of the House of
 15 Representatives, and the Committee on Health, Edu-
 16 cation, Labor, and Pensions of the Senate a report
 17 on unregulated custody transfers of children, includ-
 18 ing of adopted children.

19 “(2) ELEMENTS.—The report required under
 20 paragraph (1) shall include—

21 “(A) the causes, methods, and characteris-
 22 tics of unregulated custody transfers, including
 23 the use of social media and the internet;

24 “(B) the effects of unregulated custody
 25 transfer on children, including the lack of as-
 26 sessment of a child’s safety and well-being by

1 social services agencies and courts due to such
2 unregulated custody transfer;

3 “(C) the prevalence of unregulated custody
4 transfers within each State and across all
5 States; and

6 “(D) recommended policies for preventing,
7 identifying, and responding to unregulated cus-
8 tody transfers, including of adopted children,
9 that include—

10 “(i) amendments to Federal and State
11 law to address unregulated custody trans-
12 fers;

13 “(ii) amendments to child protection
14 practices to address unregulated custody
15 transfers; and

16 “(iii) methods of providing the public
17 information regarding adoption and child
18 protection.

19 “(b) GUIDANCE TO STATES.—

20 “(1) IN GENERAL.—Not later than 1 year after
21 the date of the enactment of this section, the Sec-
22 retary, in consultation with the Secretary of State,
23 shall issue guidance and technical assistance to
24 States related to preventing, identifying, and re-

sponding to unregulated custody transfers, including
of adopted children.

“(2) ELEMENTS.—The guidance required under
paragraph (1) shall include—

“(A) education and training materials re-
lated to preventing, identifying, and responding
to unregulated custody transfers for employees
of State, local, and Tribal agencies that provide
child welfare services;

“(B) model State laws with respect to un-
regulated custody transfers; and

“(C) guidance on appropriate pre-adoption
training and post-adoption services for domestic
and international adoptive families to promote
child permanency.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘State’ means each of the several
States, the District of Columbia, and any common-
wealth, territory, or possession of the United States;
and

“(2) the term ‘unregulated custody transfer’
has the meaning given such term in section 3 of the
Child Abuse Prevention and Treatment Act.”.

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