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SENATE DRS25205-LU-34A (01/09)

Short Title: Prohibit Re-Homing of an Adopted Minor Child. (Public)

Sponsors: Senators Stein and Barringer (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE RE-HOMING OF AN ADOPTED MINOR CHILD AND
3 MAKE CONFORMING STATUTORY CHANGES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 48-1-101 is amended by adding a new subdivision to read:

6 "§ 48-1-101. Definitions.

7 In this Chapter, the following definitions apply:

8 ...

9 (14a) "Re-homing" means the permanent transfer of physical custody of an
10 adopted minor child by the child's parent, without a court order, to a person
11 other than the child's stepparent, grandparent, adult sibling, aunt, uncle, first
12 cousin, great-aunt, great-uncle, or great-grandparent. Compensation in the
13 form of money, property, or other item of value is not required in order for
14 re-homing to occur. Re-homing does not include placement of an adopted
15 minor child with a prospective adoptive parent in accordance with Part 2 of
16 Article 3 of this Chapter, relinquishment of an adopted minor child in
17 accordance with Part 7 of Article 3 of this Chapter, or placement of an
18 adopted minor child in accordance with the Interstate Compact on the
19 Placement of Children under Article 38 of Chapter 7B of the General
20 Statutes.

21"

22 SECTION 2. G.S. 48-10-101(b) reads as rewritten:

23 "(b) No one other than a county department of social services, an adoption facilitator, or
24 an agency licensed by the Department in this State may advertise in any periodical or
25 newspaper, or by radio, television, or other public medium, that any person or entity will place
26 or accept a child for adoption. For purposes of this section, "other public medium" includes the
27 use of any computerized system, including electronic mail, Internet site, Internet profile, or any
28 similar medium of communication provided via the Internet."

29 SECTION 3. Article 10 of Chapter 48 of the General Statutes is amended by
30 adding a new section to read:

31 "§ 48-10-106. Re-homing of an adopted minor child.

32 (a) It shall be unlawful for an adoptive parent to:

33 (1) Advertise, recruit, or solicit or to aid, abet, conspire, or seek the assistance of
34 another to advertise, recruit, or solicit for the re-homing of that parent's
35 minor adopted child; or



1 (2) Knowingly and willfully respond to an advertisement or solicitation by
2 another seeking to either take permanent physical custody of the adopted
3 minor child or to facilitate the re-homing of the adopted minor child.

4 (b) The transfer and re-homing of an adopted minor child, as defined in
5 G.S. 48-1-101(14a), shall be unlawful.

6 (c) It shall be unlawful for a person to advertise for, solicit, recruit, transport, receive,
7 or obtain or to facilitate, assist, or arrange for the transfer of an adopted minor child for the
8 purpose of re-homing the minor child.

9 (d) A person who violates this section is guilty of a Class F felony.

10 (e) An adopted minor child whose parent has re-homed or attempted to re-home the
11 minor child is a neglected juvenile as defined by G.S. 7B-101(15). The county department of
12 social services shall file a petition and the court may place the minor child in the custody of a
13 county department of social services or other such person as is in the best interests of the minor
14 child.

15 (f) This section does not apply to:

16 (1) The temporary placement of a minor child by the adoptive parent for a
17 specified period of time due to either the child's medical, mental health, or
18 educational needs or the parent's inability to provide proper care or
19 supervision for the minor child, which may be due to the parent's
20 incarceration, military service, employment, medical treatment, or
21 incapacity;

22 (2) A voluntary foster care placement of the minor child made between the
23 minor child's parent and a county department of social services pursuant to
24 G.S. 7B-910; or

25 (3) A change in custody made pursuant to a valid court order."

26 **SECTION 4.** G.S. 7B-101(15) reads as rewritten:

27 "**§ 7B-101. Definitions.**

28 As used in this Subchapter, unless the context clearly requires otherwise, the following
29 words have the listed meanings:

30 ...

31 (15) **Neglected juvenile.** – A juvenile who does not receive proper care,
32 supervision, or discipline from the juvenile's parent, guardian, custodian, or
33 caretaker; or who has been abandoned; or who is not provided necessary
34 medical care; or who is not provided necessary remedial care; or who lives
35 in an environment injurious to the juvenile's welfare; or who has been
36 re-homed as defined in G.S. 48-1-101(14a) or placed for care or adoption in
37 violation of law. In determining whether a juvenile is a neglected juvenile, it
38 is relevant whether that juvenile lives in a home where another juvenile has
39 died as a result of suspected abuse or neglect or lives in a home where
40 another juvenile has been subjected to abuse or neglect by an adult who
41 regularly lives in the home.

42 "

43 **SECTION 5.** G.S. 7B-302(a) reads as rewritten:

44 "(a) When a report of abuse, neglect, or dependency is received, the director of the
45 department of social services shall make a prompt and thorough assessment, using either a
46 family assessment response or an investigative assessment response, in order to ascertain the
47 facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order
48 to determine whether protective services should be provided or the complaint filed as a petition.
49 When the report alleges abuse, the director shall immediately, but no later than 24 hours after
50 receipt of the report, initiate the assessment. When the report alleges neglect or dependency, the
51 director shall initiate the assessment within 72 hours following receipt of the report. When the

1 report alleges ~~abandonment,~~ abandonment or re-homing, as defined in G.S. 48-1-101(14a), of a
2 juvenile, the director shall immediately initiate an assessment, take appropriate steps to assume
3 temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure
4 custody of the juvenile. The assessment and evaluation shall include a visit to the place where
5 the juvenile resides, except when the report alleges abuse or neglect in a child care facility as
6 defined in Article 7 of Chapter 110 of the General Statutes. When a report alleges abuse or
7 neglect in a child care facility as defined in Article 7 of Chapter 110 of the General Statutes, a
8 visit to the place where the juvenile resides is not required. When the report alleges
9 abandonment, the assessment shall include a request from the director to law enforcement
10 officials to investigate through the North Carolina Center for Missing Persons and other
11 national and State resources whether the juvenile is a missing child."

12 **SECTION 6.** G.S. 14-43.14 reads as rewritten:

13 "**§ 14-43.14. Unlawful sale, surrender, or purchase of a minor.**

14 (a) A person commits the offense of unlawful sale, surrender, or purchase of a minor
15 when that person, acting with willful or reckless disregard for the life or safety of a minor,
16 participates in any of the following: the acceptance, solicitation, offer, payment, or transfer of
17 any compensation, in money, property, or other thing of value, at any time, by any person in
18 connection with the unlawful acquisition or transfer of the physical custody of a minor, except
19 as ordered by the court. This section does not apply to actions that are ordered by a court,
20 authorized by statute, or otherwise lawful.

21 (a1) A person who willfully participates in re-homing an adopted minor child as defined
22 in G.S. 48-1-101(14a) and G.S. 48-10-106 shall violate this section.

23 (b) A person who violates this section is guilty of a Class F felony and shall pay a
24 minimum fine of five thousand dollars (\$5,000). For each subsequent violation, a person is
25 guilty of a Class F felony and shall pay a minimum fine of ten thousand dollars (\$10,000).

26 (c) A minor whose parent, guardian, or custodian has sold or attempted to sell a minor
27 in violation of this Article is an abused juvenile as defined by G.S. 7B-101(1). The county
28 department of social services shall file a petition and the court may place the minor in the
29 custody of the Department of Social Services or with such other person as is in the best interest
30 interests of the minor.

31 (d) A violation of this section is a lesser included offense of G.S. 14-43.11.

32 (e) When a person is convicted of a violation of this section, the sentencing court shall
33 consider whether the person is a danger to the community and whether requiring the person to
34 register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of
35 that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger
36 to the community and that the person shall register, then an order shall be entered requiring the
37 person to register."

38 **SECTION 7.** This act is effective when it becomes law.