

§ 14-321.2. Prohibit unlawful transfer of custody of minor child.

- (a) It shall be unlawful for:
- (1) A parent to effect or attempt to effect an unlawful transfer of custody of that parent's minor child.
 - (2) A person to accept or attempt to accept custody pursuant to an unlawful transfer of custody of a minor child; except that it shall not be unlawful for a person to receive custody of a child from a parent who intends to effect an unlawful transfer of custody of that parent's minor child if the person promptly notifies law enforcement or child protective services in the county where the child resides or is found and promptly makes the child available to law enforcement or child protective services.
 - (3) A person to advertise, recruit, or solicit, or to aid, abet, conspire, or seek the assistance of another to advertise, recruit, or solicit the unlawful transfer of custody of a minor child.
- (b) Definitions. – As used in this section, the following definitions apply:
- (1) "Minor child" means a child under the age of 18 and includes an adopted minor child, as defined in G.S. 48-1-101(14a).
 - (2) "Parent" means a biological parent, adoptive parent, legal guardian, or legal custodian.
 - (3) "Relative" means 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.
 - (4) "Unlawful transfer of custody" means the transfer of physical custody of a minor child, in willful violation of applicable adoption law or by grossly negligent omission in the care of the child, by the child's parent, without a court order or other authorization under law, to a person other than a relative or another individual having a substantial relationship with the child. Compensation in the form of money, property, or other item of value is not required in order for an unlawful transfer of custody to occur. Unlawful transfer of custody does not include any of the following:
 - a. Placement of a minor child with a prospective adoptive parent in accordance with Part 2 of Article 3 of Chapter 48 of the General Statutes.
 - b. A consent to adoption of a minor child in accordance with Part 6 of Article 3 of Chapter 48 of the General Statutes.
 - c. Relinquishment of a minor child in accordance with Part 7 of Article 3 of Chapter 48 of the General Statutes.
 - d. Placement of a minor child in accordance with the Interstate Compact on the Placement of Children under Article 38 of Chapter 7B of the General Statutes or the Convention of 29 May 1993 on Protection of Children and Co-operation in respect of Intercountry Adoption.
 - e. Temporary transfer of physical custody of a minor child to an individual with a prior substantial relationship with the child for a specified period of time due to (i) the child's medical, mental health, educational, or recreational needs or (ii) the parent's inability to provide proper care or supervision for the minor child, which may be due to the parent's incarceration, military service, employment, medical treatment, incapacity, or other voluntary or involuntary absence.

- f. Transfer of physical custody of a minor child to a relative.
- g. Temporary transfer of physical custody of a minor child to a behavioral health facility or other health care provider, an educational institution, or a recreational facility by a parent for a specified period of time due to the child's medical, mental health, educational, or recreational needs.
- h. A voluntary foster care placement of the minor child made pursuant to an agreement between the minor child's parent and a county department of social services as described in G.S. 7B-910.
- i. Placement of a minor child with a prospective adoptive parent in substantial compliance with the applicable adoption laws of this State or of another state.

(c) Any person who commits an offense under subsection (a) of this section is guilty of a Class A1 misdemeanor.

(d) Any person who commits an offense under subsection (a) of this section that results in serious physical injury to the child is guilty of a Class G felony. (2016-115, s. 1.)