

Senate Bill No. 1040

Passed the Senate August 25, 2016

Secretary of the Senate

Passed the Assembly August 18, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 9 (commencing with Section 9221) to Part 2 of Division 13 of the Family Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1040, Hill. Postadoption instability: unlawful transfer of custody.

Existing law regulates adoption services by the State Department of Social Services, county adoption agencies, licensed adoption agencies, and other adoption service providers and requires the department to adopt regulations pertaining to those services.

Existing law makes it a misdemeanor for a parent of a minor to willfully omit, without lawful excuse, to furnish necessary clothing, food, shelter, or medical attendance, or other remedial care for his or her child. Existing law makes it a crime for a parent of a child under 14 years of age, and a person to whom the child has been confided for nurture or education, to desert the child in any place with intent to abandon the child, as specified. Existing law makes it a misdemeanor for a parent or organization, without holding a valid and unrevoked license to place children for adoption, to advertise in a public medium, as specified, that he, she, or it will place children for adoption, or accept, supply, provide, or obtain children for adoption, or to cause an advertisement to be published in or by a public medium soliciting, requesting, or asking for a child or children for adoption.

This bill would require the State Department of Social Services, in consultation with specified individuals and entities, to establish a working group to review the challenges facing families with adopted children, to identify resources within the community that will assist families with these challenges, and to make recommendations to the Legislature as to the services that may be helpful to these families. The bill would require the working group to meet no later than April 1, 2017, and would require the working group's recommendations to be submitted in a report to the appropriate policy committees of the Legislature on or before April 1, 2018.

The people of the State of California do enact as follows:

SECTION 1. Chapter 9 (commencing with Section 9221) is added to Part 2 of Division 13 of the Family Code, to read:

CHAPTER 9. POSTADOPTION INSTABILITY AND UNLAWFUL
TRANSFER OF CUSTODY

9221. (a) The Legislature acknowledges that adoptive families often face special challenges. This is particularly true in the case of international adoptions, adoptions of special needs children, and adoptions of dependent children who have experienced abuse, neglect, and, often, multiple placements. The Legislature finds and declares that it is the public policy of the State of California to assist adoptive families and adopted children, and intends this section to ensure that these families receive the support needed to maintain the family unit, and when necessary, find new, permanent homes for youth.

(b) (1) In order to address and prevent the circumstances in which an adoptive parent seeks to engage in the unlawful transfer of the custody of a child, the State Department of Social Services shall, in consultation with child advocacy organizations, attorneys specializing in adoption and guardianships, counsel representing minors in dependency proceedings, the Judicial Council, the office of the Attorney General, local law enforcement agencies, foster caregiver organizations, county welfare officials, and individuals with expertise in the area of positive youth development, establish a working group to review the challenges facing families with adopted children, to identify resources within the community that will assist families with these challenges, and to make recommendations to the Legislature as to the services that may be helpful to these families.

(2) In developing the recommendations, the working group shall consider all of the following:

(A) Education and resources that would benefit prospective adoptive families prior to an adoption, and whether certain services and education should be required before an adoption can be completed.

(B) The specific challenges facing the following families: families with special needs children, families with children adopted

through the foster care system, and families with internationally adopted children.

(C) The distinct resources that are available to the different types of families specified in subparagraph (B), and whether any of the resources available to one type of family would also be beneficial to another type.

(D) The training and education that are necessary to equip mental health professionals with the tools necessary to provide the families specified in subparagraph (B) with services tailored to their unique needs.

(E) How to effectively recruit more prospective adoptive families that are able to provide new, permanent, and loving homes to children coming out of disrupted adoptions.

(F) The feasibility of creating a clearinghouse of persons and entities that are knowledgeable in addressing the needs of, and finding subsequent placements for, children at risk of having their custody unlawfully transferred, including adoption agencies, social workers, attorneys, mental health professionals, and prospective adoptive parents.

(G) Data currently available at the state and local levels for assessing the frequency of postadoption instability and the factors and causes associated with postadoption instability. The working group shall identify the gaps or limitations in data on postadoption instability.

(H) Identified best practices for collecting and tracking, on an ongoing basis, both quantitative and qualitative data to understand the extent of postadoption instability and to tailor supports to meet the needs of children and families experiencing postadoption instability.

(I) An assessment of any gaps or limitations in existing law, including provisions within the Penal Code, relating to the solicitation to take custody of a minor and the subsequent taking of custody of the minor without initiating a lawful guardianship proceeding or adoption proceeding.

(c) (1) The working group shall meet no later than April 1, 2017. The recommendations developed pursuant to this section shall be submitted in a report to the appropriate policy committees of the Legislature on or before April 1, 2018.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(3) The requirement for submitting a report pursuant to this subdivision is inoperative on June 1, 2022, pursuant to Section 10231.5 of the Government Code.

(d) For purposes of this section, “postadoption instability” includes regulated circumstances, including, but not limited to, adoption nullification or dissolution, and unregulated circumstances, including, but not limited to, the unlawful transfer of custody of an adopted child from the adoptive parent to another person or entity.

Approved _____, 2016

Governor