
Judiciary Committee

HB 2624

Title: An act relating to clarifying the applicability of child abduction statutes to residential provisions ordered by a court.

Brief Description: Clarifying the applicability of child abduction statutes to residential provisions ordered by a court.

Sponsors: Representatives Haler, Tarleton, Klippert and Freeman.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Amends the crime of Custodial Interference in the first degree to apply where the parent from whom the child is taken has the right to time with the child under any court order making residential provisions for the child.

Hearing Date: 2/4/14

Staff: Edie Adams (786-7180).

Background:

The crime of Custodial Interference generally involves taking, enticing, retaining, detaining, or concealing a child away from a parent or other person who has a lawful right to custody or time with the child, with the intent to deny that person access to the child. There are two degrees to the crime of Custodial Interference, and for both degrees, there are different elements to the crime depending on whether the perpetrator is a relative of the child or a parent.

Custodial Interference in the first degree is committed by a parent if the parent takes a child with the intent to deny access to the other parent who has the right to time with the child under a court-ordered parenting plan, and the parent:

- intends to hold the child permanently or for a protracted period;
- exposes the child to a substantial risk of illness or physical injury; or
- causes the child to be removed from the state of usual residence.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Custodial Interference in the second degree is committed by a parent if:

- the parent takes a child with the intent to deny access to the other parent who has the right to time with the child under a court-ordered parenting plan;
- the parent has not complied with the residential provisions of the parenting plan after a finding of contempt; or
- the parent has engaged in a pattern of willful violations of the court-ordered residential provisions.

Under both first degree and second degree Custodial Interference committed by a parent, one element of the offense is that the parent from whom the child is taken must have a lawful right to time with the child under a court-ordered "parenting plan." In a recent Washington Supreme Court (Court) case, *State v. Veliz*, the Court held that a domestic violence protection order containing residential provisions for a child does not constitute a court-ordered "parenting plan" for the purposes of Custodial Interference in the first degree. The Court found that the Legislature used the term "parenting plan" as a term of art referring only to parenting plans established pursuant to a proceeding for the dissolution or legal separation of a marriage or domestic partnership.

Summary of Bill:

The crime of Custodial Interference in the first degree is amended to apply where the parent from whom the child is taken has the right to time with the child under any court order making residential provisions for the child, not just under a court-ordered parenting plan.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.