

SENATE BILL REPORT

SHB 1021

As of March 22, 2013

Title: An act relating to educating parents of the harmful effects of parental abduction.

Brief Description: Educating parents of the harmful effects of parental abduction.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Haler).

Brief History: Passed House: 2/25/13, 92-0.

Committee Activity: Law & Justice: 3/22/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Sharon Swanson (786-7447)

Background: In dissolution or legal separation cases in which there are minor children, the court must establish a parenting plan setting forth, among other things, each parent's residential time with the children. The court must make residential provisions that encourage each parent to maintain a loving, stable, and nurturing relationship with the child, considering a number of statutory factors. These factors include, among others: the relative strength, nature, and stability of the child's relationship with each parent; each parent's past and potential for future performance of parenting functions; the emotional needs and developmental level of the child; and the child's relationship with siblings and with other significant adults, as well as the child's involvement with their own physical surroundings, school, or other significant activities.

Generally, a court may modify a parenting plan only upon a showing of a substantial change of circumstances with respect to the child or the nonmoving party, and showing that the modification is in the best interests of the child. The court must retain the residential schedule unless certain factors are established. One basis for changing the residential schedule is that the court finds the nonmoving parent in contempt of court at least twice in three years for failing to comply with the residential schedule, or if the parent has been convicted of custodial interference. A conviction of custodial interference is considered a substantial change of circumstances for purposes of modifying the parenting plan.

Custodial interference in the first degree is committed by a parent if the parent takes, entices, retains, detains, or conceals the child, with the intent to deny access from the other parent having the lawful right to time with the child pursuant to a court-ordered parenting plan and

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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 the child's usual residence. Custodial interference in the first degree is a class C felony.

Custodial interference in the second degree is committed by a parent if: (1) the parent takes, entices, retains, detains, or conceals the child, with the intent to deny access from the other parent having the lawful right to time with the child pursuant to a court-ordered parenting plan; (2) the parent has not complied with the residential provisions of the parenting plan after a finding of contempt; or (3) the parent engaged in a pattern of willful violations of court-ordered residential provisions. Custodial interference in the second degree is a gross misdemeanor on a first offense and a class C felony for subsequent offenses.

Summary of Bill: In a dissolution or legal separation proceeding involving the care or custody of a minor child, information regarding the harmful effects of parental abduction must be included in any packet of information provided to the parties, or in any parenting class or seminar provided to the parties. The information must contain material set out in statute that discusses the potential immediate and long-term adverse impacts of child abduction by a parent.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill came about because of a young man who was kidnapped by his father at the age of ten. The young man was told his mother was deceased and he did not learn until he was 21 years of age that his mother was alive and looking for him the entire time. Parental abduction causes enormous, life-long trauma for children. Parents must be educated on the impact of parental abduction. All of the concerns of the Family Law Section are addressed in this version of the bill.

Persons Testifying: PRO: Representative Haler, prime sponsor; Kathryn Leathers, Family Law Section, Washington State Bar Assn.