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SENATE BILL 6539

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State of Washington                      63rd Legislature                      2014 Regular Session

By Senators Rivers, Cleveland, and Brown

Read first time 02/03/14. Referred to Committee on Law & Justice.

1            AN ACT Relating to clarifying the applicability of child abduction  
2 statutes to residential provisions ordered by a court; amending RCW  
3 9A.40.060; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
6 address the Washington supreme court's decision in *State v. Veliz*, 176  
7 Wn.2d 849 (2013). The court held that a parent cannot be charged with  
8 custodial interference under RCW 9A.40.060(2) if a parent withholds the  
9 other parent from having access to the child in violation of  
10 residential provisions of a domestic violence protection order. The  
11 legislature intends that the provisions of RCW 9A.40.060(2) be  
12 applicable in cases in which a court has entered any order making  
13 residential provisions for a child including, but not limited to,  
14 domestic violence protection orders that include such residential  
15 provisions.

16            **Sec. 2.** RCW 9A.40.060 and 1998 c 55 s 1 are each amended to read  
17 as follows:

18            (1) A relative of a child under the age of eighteen or of an

1 incompetent person is guilty of custodial interference in the first  
2 degree if, with the intent to deny access to the child or incompetent  
3 person by a parent, guardian, institution, agency, or other person  
4 having a lawful right to physical custody of such person, the relative  
5 takes, entices, retains, detains, or conceals the child or incompetent  
6 person from a parent, guardian, institution, agency, or other person  
7 having a lawful right to physical custody of such person and:

8 (a) Intends to hold the child or incompetent person permanently or  
9 for a protracted period; or

10 (b) Exposes the child or incompetent person to a substantial risk  
11 of illness or physical injury; or

12 (c) Causes the child or incompetent person to be removed from the  
13 state of usual residence; or

14 (d) Retains, detains, or conceals the child or incompetent person  
15 in another state after expiration of any authorized visitation period  
16 with intent to intimidate or harass a parent, guardian, institution,  
17 agency, or other person having lawful right to physical custody or to  
18 prevent a parent, guardian, institution, agency, or other person with  
19 lawful right to physical custody from regaining custody.

20 (2) A parent of a child is guilty of custodial interference in the  
21 first degree if the parent takes, entices, retains, detains, or  
22 conceals the child, with the intent to deny access, from the other  
23 parent having the lawful right to time with the child pursuant to a  
24 (~~court-ordered parenting plan~~) court order making residential  
25 provisions for the child, and:

26 (a) Intends to hold the child permanently or for a protracted  
27 period; or

28 (b) Exposes the child to a substantial risk of illness or physical  
29 injury; or

30 (c) Causes the child to be removed from the state of usual  
31 residence.

32 (3) A parent or other person acting under the directions of the  
33 parent is guilty of custodial interference in the first degree if the  
34 parent or other person intentionally takes, entices, retains, or  
35 conceals a child, under the age of eighteen years and for whom no  
36 lawful custody order or parenting plan has been entered by a court of  
37 competent jurisdiction, from the other parent with intent to deprive

1 the other parent from access to the child permanently or for a  
2 protracted period.

3 (4) Custodial interference in the first degree is a class C felony.

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