

By Senator Rossin

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A bill to be entitled  
An act relating to interference with custody;  
amending s. 787.03, F.S.; prescribing duties of  
persons who take minor children when fleeing  
from situations of actual or threatened  
domestic violence; providing penalties;  
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 787.03, Florida Statutes, is amended to read:

787.03 Interference with custody.--

(1) Whoever, without lawful authority, knowingly or recklessly takes or entices, or aids, abets, hires, or otherwise procures another to take or entice, any child 17 years of age or under or any incompetent person from the custody of the child or incompetent person's parent, his or her guardian, a public agency having the lawful charge of the child or incompetent person, or any other lawful custodian commits the offense of interference with custody and shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) In the absence of a court order determining rights to custody or visitation with any child 17 years of age or under or with any incompetent person, any parent of the child or incompetent person, whether natural or adoptive, stepparent, legal guardian, or relative of such child or incompetent person who has custody thereof and who takes, detains, conceals, or entices away that child or incompetent person within or without the state, with malicious intent to

1 deprive another person of his or her right to custody of the  
2 child or incompetent person, shall be guilty of a felony of  
3 the third degree, punishable as provided in s. 775.082, s.  
4 775.083, or s. 775.084.

5 (3) A subsequently obtained court order for custody or  
6 visitation shall not affect application of this section.

7 (4) It is a defense that:

8 (a) The defendant reasonably believes that his or her  
9 action was necessary to preserve the child or the incompetent  
10 person from danger to his or her welfare.

11 (b) The child or incompetent person was taken away at  
12 his or her own instigation without enticement and without  
13 purpose to commit a criminal offense with or against the child  
14 or incompetent person.

15 (5) Proof that a child was 17 years of age or under  
16 creates the presumption that the defendant knew the child's  
17 age or acted in reckless disregard thereof.

18 (6)(a) This section shall not apply in cases where a  
19 spouse who is the victim of any act of domestic violence or  
20 who has reasonable cause to believe he or she is about to  
21 become the victim of any act of domestic violence, as defined  
22 in s. 741.28, or believes that his or her action was necessary  
23 to preserve the child or the incompetent person from danger to  
24 his or her welfare seeks shelter from such acts or possible  
25 acts and takes with him or her any child 17 years of age or  
26 younger.

27 (b) A person who takes a child pursuant to this  
28 subsection must:

29 1. Within a reasonable time after taking the child,  
30 make a report to the sheriff's office or state attorney's  
31 office for the county in which the child resided at the time

1 he or she was taken, which report shall include the name of  
2 the person taking the child, the current address and telephone  
3 number of the person and child, and the reasons the child was  
4 taken.

5 2. Within a reasonable time after taking the child,  
6 commence a custody proceeding which is consistent with the  
7 federal Parental Kidnapping Prevention Act, 28 U.S.C. s.  
8 1738A, or the Uniform Child Custody Jurisdiction Act, ss.  
9 61.1302-61.1348.

10 3. Inform the sheriff's office or state attorney's  
11 office for the county in which the child resided at the time  
12 he or she was taken of any change of address or telephone  
13 number of the person and child.

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15 For the purposes of this paragraph, a period of 10 days for  
16 making a required report and a period of 30 days for  
17 commencing a custody proceeding are not unreasonable, and  
18 either action may be taken earlier than the time specified.

19 Section 2. This act shall take effect July 1, 1999.

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22 SENATE SUMMARY

23 Provides that a person who flees from actual or  
24 threatened domestic violence and takes with him or her a  
25 minor child under circumstances that otherwise would  
26 constitute interference with custody must report their  
27 address and phone number to the sheriff's office or state  
28 attorney's office for the county in which the child  
29 resided and must commence a custody proceeding.  
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