

1                   A bill to be entitled  
2           An act relating to interference with custody;  
3           amending s. 787.03, F.S.; providing for a  
4           defense; prescribing duties of persons who take  
5           minor children when fleeing from situations of  
6           actual or threatened domestic violence;  
7           providing penalties; providing an effective  
8           date.

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

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

14           787.03 Interference with custody.--

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

25           (2) In the absence of a court order determining rights  
26   to custody or visitation with any child 17 years of age or  
27   under or with any incompetent person, any parent of the child  
28   or incompetent person, whether natural or adoptive,  
29   stepparent, legal guardian, or relative of such child or  
30   incompetent person who has custody thereof and who takes,  
31   detains, conceals, or entices away that child or incompetent

1 person within or without the state, with malicious intent to  
2 deprive another person of his or her right to custody of the  
3 child or incompetent person, shall be guilty of a felony of  
4 the third degree, punishable as provided in s. 775.082, s.  
5 775.083, or s. 775.084.

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

8 (4) It is a defense that:

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

12 (b) The defendant was the victim of an act of domestic  
13 violence or had reasonable cause to believe that his or her  
14 action was necessary to protect himself or herself from an act  
15 of domestic violence as defined in s. 741.28.

16 (c)~~(b)~~ The child or incompetent person was taken away  
17 at his or her own instigation without enticement and without  
18 purpose to commit a criminal offense with or against the child  
19 or incompetent person.

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

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

1           (b) A person who takes a child pursuant to this  
2 subsection must:

3           1. Within a reasonable time after taking the child,  
4 make a written report to the sheriff's office or state  
5 attorney's office for the county in which the child resided at  
6 the time he or she was taken, which report shall include the  
7 name of the person taking the child, the current address and  
8 telephone number of the person and child, and the reasons the  
9 child was taken.

10           2. Within a reasonable time after taking the child,  
11 commence a custody proceeding which is consistent with the  
12 federal Parental Kidnapping Prevention Act, 28 U.S.C. s.  
13 1738A, or the Uniform Child Custody Jurisdiction Act, ss.  
14 61.1302-61.1348.

15           3. Inform the sheriff's office or state attorney's  
16 office for the county in which the child resided at the time  
17 he or she was taken of any change of address or telephone  
18 number of the person and child.

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

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