

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) In order to gain the exemption conferred by
2 paragraph (a), a person who takes a child pursuant to this
3 subsection must:

4 1. Within 10 days after taking the child, make a
5 report to the sheriff's office or state attorney's office for
6 the county in which the child resided at the time he or she
7 was taken, which report shall include the name of the person
8 taking the child, the current address and telephone number of
9 the person and child, and the reasons the child was taken.

10 2. Within a reasonable time after taking the child,
11 commence a custody proceeding that 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.

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