

STORAGE NAME: h0731a.flc
DATE: April 6, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FAMILY LAW AND CHILDREN
ANALYSIS**

BILL #: HB 731
RELATING TO: Interference with Custody
SPONSOR(S): Representative Greene
COMPANION BILL(S): SB 1174 and SB 1172

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FAMILY LAW AND CHILDREN YEAS 5 NAYS 1
 - (2)
 - (3)
 - (4)
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I. SUMMARY:

HB 731 provides that a person who flees from actual or threatened domestic violence, and in so doing takes a minor child under circumstances that would otherwise constitute interference with custody, must report their address and phone number to the sheriff's office or state attorney's office for the county in which the child resided. A custody proceeding must be commenced within a specific period of time.

There is no fiscal impact associated with the implementation of this bill.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 787.03, Florida Statutes, addresses interference with custody. Under subsection (1), if a person knowingly or recklessly takes or entices an incompetent person or child, aged 17 or younger, or, if a person aids, abets, hires, or procures another to take or entice an incompetent person or child from the custody of his or her parent, guardian, lawful custodian, or the agency having charge of that person, the offense committed is interference of custody. Commission of this offense is a felony of the third degree.

Section 787.03(6), Florida Statutes, provides that this section does not apply in cases involving certain cases of spousal domestic violence, when the spouse seeks shelter and takes the child or incompetent person with him or her.

B. EFFECT OF PROPOSED CHANGES:

The bill amends s. 787.03(6), Florida Statutes, the domestic violence provision in this section of the law, to create a new paragraph (b). The new language will require that a person taking a child pursuant to subsection (6) take a number of specified affirmative steps or actions.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, parents taking a child under the provisions of 787.03(6) must take several affirmative actions.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?
N/A
- b. Does the bill require or authorize an increase in any fees?
N/A
- c. Does the bill reduce total taxes, both rates and revenues?
N/A
- d. Does the bill reduce total fees, both rates and revenues?
N/A
- e. Does the bill authorize any fee or tax increase by any local government?
N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
N/A
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?
N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
N/A
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?
N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs?
N/A
 - (2) Who makes the decisions?
N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

It may in certain circumstances.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 787.03, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 787.03, Florida Statutes, to provide that any person who takes a child pursuant to s. 787.03(6)(a), Florida Statutes, must do the following:

- within a reasonable time after taking the child, make a report to the sheriff's office or state attorney's office for the county in which the child resided at the time he or she was taken to include the name of the person taking the child, the current address and telephone number of the person and the child, and the reason the child was taken;
- within a reasonable time after taking the child, commence a custody proceeding which is consistent with the federal Parental Kidnapping Prevention Act or the Uniform Child Custody Jurisdiction Act;
- inform the sheriff's office or state attorney's office for the county in which the child resided at the time he or she was taken of any address or telephone number change for the person and child.

The section provides that for purposes of this new paragraph, a period of 10 days for making a required report and a period of 30 days for making a required report for commencing custody proceeding are not unreasonable, and either action may be taken earlier than these timeframes.

Section 2. Provides for an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

There should be no fiscal impact associated with this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

HB 1995 by Representative Greene provides an exemption for public records disclosure of that information which is reported to the state attorneys and sheriffs by persons who take their minor children with them when fleeing domestic violence. That bill was not referred to the Committee on Family Law and Children.

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

N/A

VII. **SIGNATURES:**

COMMITTEE ON FAMILY LAW AND CHILDREN:

Prepared by:

Staff Director:

Carol Preston

Carol Preston