

BILL ANALYSIS

H.B. 227

By: Keel

Juvenile Justice & Family Issues
Committee Report (Amended)

BACKGROUND AND PURPOSE

Peace officers frequently are met with child custody situations wherein a parent has called law enforcement because the other parent has either refused to relinquish custody of a child per the terms of a court decree, or fails to return a child in compliance with such terms. Currently, in Texas there is inconsistent enforcement of such decrees when police are called. Some agencies will act when presented with a presumably valid court order. Other agencies will not, even when presented with a court order that appears valid on its face. A legitimate concern under such circumstances is the possibility that such a decree could have been changed or overturned by subsequent court order.

Officers, also do not have any way to readily check the validity of the document itself, and are understandably concerned about departmental liability. These situations frequently occur during night or weekend hours.

House Bill 227 institutes a consistent statewide policy that provides for peace officer enforcement of child custody orders in circumstances where peace officers are often summoned, such as disturbance calls involving disputes during the exchanges of children or allegations of kidnapping by one parent against another parent. H.B. 227 would also indemnify the peace officer and the peace officer's agency against claims where the officer relies on a document that appears to be a valid court order. A person who knowingly presents an invalid court order would be subject to a criminal penalty punishable by confinement in jail for up to two years and a fine of up to \$10,000.00.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 105.006, Family Code, by adding Subsection (e-1), as follows:

(e-1) Indemnifies a peace officer and the peace officer's agency, when enforcing a court ordered custody decree, against claims when the officer relies on a document that appears to be a valid court order. A person who knowingly presents an invalid court order would be subject to a criminal penalty punishable by confinement in jail for up to two years and a fine of up to \$10,000.00. Sets forth language to be included in the order.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The change in law made by this Act applies only to a court order providing for the possession of or access to a child that is rendered on or after the effective date of this Act. A court order providing for the possession of or access to a child that is rendered before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2003.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 allows a peace officer to permissively use reasonable efforts to enforce the terms of child custody, specified in a court order.