

BILL ANALYSIS

C.S.H.B. 1909
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, it is a state jail felony if after filing a suit affecting the parent-child relationship a non-custodial parent knowingly removes the child from the a geographical area without giving prior notice to the court and custodial parent. Conversely, a custodial parent may remove the child from the region without fear of penalty. C.S.H.B.1909 makes it a state jail felony for a person, regardless if the person is the custodial or non-custodial parent, to retain a child without permission of the court with the intent to deprive another conservator of the possession of or access to the child.

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.

ANALYSIS

C.S.H.B.1909 amends the Penal Code to modify provisions relating to the prosecution of the offense of interference with child custody. The bill provides that if a person's taking or retention violates the express terms of a judgement or court order of a court effecting possession of a child it is punishable by a state jail felony. Also, if after a suit affecting the parent-child relationship is filed, a managing or possessory conservator of a child takes or retains a child without permission of the court with the intent to deprive another conservator of the child of possession of or access to the child the person has committed an offense punishable by a state jail felony. Finally, if the conservator changes the physical residence of the child or any other information necessary for possession of or access to the child, it is punishable by a state jail felony. The bill provides that it is a defense to prosecution that the managing conservator used due diligence and reasonable methods of communication in attempting to provide the other managing or possessory conservator of the child with the necessary information for location of the child.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B.1909 modifies the original H.B.1909 by providing in Section 25.03(a)(3) language that would require the conservator to gain permission of the court before changing the physical residence of the child. Some custody agreements include this requirement, but the original version of the bill would require all parents to gain permission from the court though this was not required in the custody agreement. The substitute language allows the custody agreement to prescribe a requirement of the conservator parent to gain permission from the court before changing the address of the child.

