

By: Talton

H.B. No. 1129

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of interference with child custody.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.03, Penal Code, is amended to read as follows:

Sec. 25.03. INTERFERENCE WITH CHILD CUSTODY. (a) A person commits an offense if the person takes or retains a child younger than 18 years of age when the person:

(1) knows that the person's taking or retention violates the express terms of a judgment or order of a court that provides for the possession of or access to the child [~~disposing of the child's custody~~]; [~~or~~]

(2) has not been appointed managing or possessory conservator [~~awarded custody~~] of the child by a court of competent jurisdiction, knows that a suit for divorce, a suit affecting the parent-child relationship, or a civil suit or application for habeas corpus to provide for possession of or access to the child [~~dispose of the child's custody~~] has been filed, and takes the child out of the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, without the permission of the court and with the intent to deprive the court of authority over the child; or

(3) has been appointed managing or possessory

1 conservator of the child by a court of competent jurisdiction and,
2 without the permission of the court and with the intent to deprive
3 another conservator of the child of possession of or access to the
4 child, changes the physical residence of the child without
5 notifying the other conservator of the child's new address and any
6 other information necessary for possession of or access to the
7 child.

8 (b) A noncustodial parent commits an offense if, with the
9 intent to interfere with the lawful custody of a child younger than
10 18 years of age, the noncustodial parent knowingly entices or
11 persuades the child to leave the custody of the custodial parent,
12 guardian, or person standing in the stead of the custodial parent or
13 guardian of the child.

14 (c) It is a defense to prosecution under Subsection (a)(2)
15 that the actor returned the child to the geographic area of the
16 counties composing the judicial district if the court is a district
17 court or the county if the court is a statutory county court, within
18 three days after the date of the commission of the offense.

19 (d) It is a defense to prosecution under Subsection (a)(3)
20 that the actor attempted, using due diligence and reasonable
21 methods of communication, to provide the other managing or
22 possessory conservator of the child with the necessary information.

23 (e) An offense under this section is a state jail felony.

24 SECTION 2. (a) The change in law made by this Act applies
25 only to an offense committed on or after the effective date of this
26 Act. For purposes of this section, an offense is committed before
27 the effective date of this Act if any element of the offense occurs

1 before that date.

2 (b) An offense committed before the effective date of this
3 Act is covered by the law in effect when the offense was committed,
4 and the former law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2005.