

BILL ANALYSIS

C.S.H.B. 1203
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law provides a civil recourse for a custodial parent in situations in which a non-custodial parent does not return or impairs the return of a child from a visitation period. This provision, however, does not address a situation in which a custodial parent does not comply with court ordered possession of or access to the child. Custodial parents may take advantage of the lack of enforcement in the possession and access orders rendered in the family court system and move a child into another geographic region without notifying the other parent.

C.S.H.B. 1203 provides that a person commits an offense if the person takes or retains a child without permission of the court and 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. 1203 amends the Penal Code to modify provisions relating to the prosecution of the offense of interference with child custody. C.S.H.B. 1203 clarifies language by stating that a person commits an offense if the person knows that the person's taking or retention of a child younger than 18 years of age violates the express terms of a court's judgment or order that provides for the possession of or access to the child. The bill also clarifies language that it is an offense if the person has not been appointed managing or possessory conservator of the child by the court and knows certain suits to provide for possession of or access to the child has been filed including a suit affecting the parent-child relationship, and takes the child out of the geographic area of certain composition of counties, without the permission of the court and with the intent to deprive the court of authority over the child.

C.S.H.B. 1203 also adds that even if the person has been appointed managing or possessory conservator of the child by a court, it is an offense if that person does not have the court's permission and has the intent to deprive another conservator of possession or access to the child by changing the child's physical residence without notifying the other conservator of the new address and any other information necessary for possession of or access to the child. In this situation, it is a defense to prosecution if the child's managing or possessory conservator attempted to provide the child's other managing or possessory conservator with the necessary information using due diligence and reasonable methods of communication.

C.S.H.B. 1203 also provides that it is a defense to prosecution that the taking or retention of the child is to avoid certain family violence against the child or the actor and that at the time the child was taken or retained, the child or actor is protected by certain protective orders or if the child or actor is not, then the actor applied for this order not later than the 14th day after the date the child was taken or retained.

Makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original did not include the provision for defense to prosecution for the avoidance of family violence.