

By: Talton

H.B. No. 1203

Substitute the following for H.B. No. 1203:

By: Pena

C.S.H.B. No. 1203

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prosecution of the offense of interference with
3 child custody.

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

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

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

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

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

24 (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) It is a defense to prosecution under this section that
24 the taking or retention of the child is to avoid the commission of
25 family violence, as defined by Section 71.004, Family Code, against
26 the child or the actor and that:

27 (1) at the time the child is taken or retained, the

1 child or the actor, as applicable, is protected from family
2 violence by:

3 (A) an emergency order for protection issued
4 under Article 17.292, Code of Criminal Procedure;

5 (B) a temporary ex parte protective order issued
6 under Chapter 83, Family Code; or

7 (C) a protective order issued under Chapter 85,
8 Family Code; or

9 (2) the actor applied for an order described by
10 Subdivision (1) not later than the 14th day after the date the child
11 was taken or retained.

12 (f) An offense under this section is a state jail felony.

13 SECTION 2. The change in law made by this Act applies only
14 to an offense committed on or after the effective date of this Act.
15 For purposes of this section, an offense is committed before the
16 effective date of this Act if any element of the offense occurs
17 before that date. An offense committed before the effective date of
18 this Act is covered by the law in effect when the offense was
19 committed, and the former law is continued in effect for that
20 purpose.

21 SECTION 3. This Act takes effect September 1, 2007.