

AN ACT

relating to children who are missing or who are victims of offenses;  
providing a criminal penalty.

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

SECTION 1. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.075 to read as follows:

Art. 13.075. CHILD INJURED IN ONE COUNTY AND RESIDING IN ANOTHER. An offense under Title 5, Penal Code, involving a victim younger than 18 years of age, or an offense under Section 25.03, Penal Code, that results in bodily injury to a child younger than 18 years of age, may be prosecuted in the county:

- (1) in which an element of the offense was committed;
- (2) in which the defendant is apprehended;
- (3) in which the victim resides; or
- (4) in which the defendant resides.

SECTION 2. Subdivision (3), Article 63.001, Code of Criminal Procedure, is amended to read as follows:

(3) "Missing child" means a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that:

(A) the child did not voluntarily leave the care and control of the custodian, and the taking of the child was not authorized by law;

(B) the child voluntarily left the care and

1 control of the [~~his legal~~] custodian without the custodian's  
2 consent and without intent to return; [~~or~~]

3 (C) the child was taken or retained in violation  
4 of the terms of a court order for possession of or access to the  
5 child; or

6 (D) the child was taken or retained without the  
7 permission of the custodian and with the effect of depriving the  
8 custodian of possession of or access to the child unless the taking  
9 or retention of the child was prompted by the commission or  
10 attempted commission of family violence, as defined by Section  
11 71.004, Family Code, against the child or the actor.

12 SECTION 3. Section 25.03, Penal Code, is amended by  
13 amending Subsection (a) and adding Subsections (c-1) and (c-2) to  
14 read as follows:

15 (a) A person commits an offense if the person takes or  
16 retains a child younger than 18 years of age [~~when the person~~]:

17 (1) when the person knows that the person's taking or  
18 retention violates the express terms of a judgment or order,  
19 including a temporary order, of a court disposing of the child's  
20 custody; [~~or~~]

21 (2) when the person has not been awarded custody of the  
22 child by a court of competent jurisdiction, knows that a suit for  
23 divorce or a civil suit or application for habeas corpus to dispose  
24 of the child's custody has been filed, and takes the child out of  
25 the geographic area of the counties composing the judicial district  
26 if the court is a district court or the county if the court is a  
27 statutory county court, without the permission of the court and

1 with the intent to deprive the court of authority over the child; or  
2 (3) outside the United States with the intent to  
3 deprive a person entitled to possession of or access to the child of  
4 that possession or access and without the permission of that  
5 person.

6 (c-1) It is an affirmative defense to prosecution under  
7 Subsection (a)(3) that:

8 (1) the taking or retention of the child was pursuant  
9 to a valid order providing for possession of or access to the child;  
10 or

11 (2) notwithstanding any violation of a valid order  
12 providing for possession of or access to the child, the actor's  
13 retention of the child was due only to circumstances beyond the  
14 actor's control and the actor promptly provided notice or made  
15 reasonable attempts to provide notice of those circumstances to the  
16 other person entitled to possession of or access to the child.

17 (c-2) Subsection (a)(3) does not apply if, at the time of  
18 the offense, the person taking or retaining the child:

19 (1) was entitled to possession of or access to the  
20 child; and

21 (2) was fleeing the commission or attempted commission  
22 of family violence, as defined by Section 71.004, Family Code,  
23 against the child or the person.

24 SECTION 4. Article 13.075, Code of Criminal Procedure, as  
25 added by this Act, applies only to an offense committed on or after  
26 the effective date of this Act. An offense committed before the  
27 effective date of this Act is governed by the law in effect on the

1 date the offense was committed, and the former law is continued in  
2 effect for that purpose. For purposes of this section, an offense  
3 was committed before the effective date of this Act if any element  
4 of the offense occurred before that date.

5 SECTION 5. The change in law made by this Act in amending  
6 Subdivision (3), Article 63.001, Code of Criminal Procedure,  
7 applies only to the report of a missing child made under Chapter 63,  
8 Code of Criminal Procedure, as amended by this Act, on or after the  
9 effective date of this Act. The report of a missing child made  
10 before the effective date of this Act is governed by the law in  
11 effect when the report was made, and the former law is continued in  
12 effect for that purpose.

13 SECTION 6. The change in law made by this Act in amending  
14 Section 25.03, Penal Code, applies only to an offense committed on  
15 or after the effective date of this Act. An offense committed  
16 before the effective date of this Act is governed by the law in  
17 effect on the date the offense was committed, and the former law is  
18 continued in effect for that purpose. For purposes of this section,  
19 an offense was committed before the effective date of this Act if  
20 any element of the offense occurred before that date.

21 SECTION 7. This Act takes effect September 1, 2011.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1551 passed the Senate on April 26, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1551 passed the House, with amendment, on May 25, 2011, by the following vote: Yeas 143, Nays 0, three present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor