86R22429 JSC-D

By:  VanDeaver H.B. No. 1223

Substitute the following for H.B. No. 1223:

By:  Murr C.S.H.B. No. 1223

A BILL TO BE ENTITLED

AN ACT

relating to the creation and enforcement of a criminal offense relating to interference with child custody and to the prosecution of child custody offenses.

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

SECTION 1.  Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.274 to read as follows:

Art. 2.274.  REPORT ON CERTAIN INTERFERENCE WITH CHILD CUSTODY. On receipt of a report of a violation of Section 25.03(a-1), Penal Code, a peace officer shall attempt to determine the whereabouts of the child and:

(1)  if the child's whereabouts are known, locate the child and:

(A)  return the child to a parent of the child who is listed on the child's birth certificate and whose parental rights have not been terminated; or

(B)  if the child is the subject of an ongoing investigation by the Department of Family and Protective Services under Chapter 261, Family Code, return the child to or allow the child to remain with the caregiver designated in a parental child safety placement agreement approved by the department under Subchapter L, Chapter 264, of that code; or

(2)  if the child's whereabouts are unknown, submit a missing child report under Chapter 63.

SECTION 2.  Section 25.03, Penal Code, is amended by adding Subsections (a-1) and (e) to read as follows:

(a-1)  A person commits an offense if:

(1)  the person takes or retains a child younger than 18 years of age;

(2)  the person:

(A)  is not a parent of the child who is listed on the child's birth certificate; or

(B)  is a parent of the child whose parental rights have been terminated;

(3)  there is no judgment or order of a court disposing of the child's custody; and

(4)  the person knows that the taking or retaining of the child is without the effective consent of or against the expressed wishes of a parent of the child who is listed on the child's birth certificate and whose parental rights have not been terminated.

(e)  If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

SECTION 3.  This Act takes effect September 1, 2019.