

By: Menéndez

S.B. No. 2011

A BILL TO BE ENTITLED

AN ACT

relating to the criminal offense of interference with child custody and a peace officer's duties with respect to that offense.

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. INTERFERENCE WITH CHILD CUSTODY REPORT. (a) On receiving a report of a violation of Section 25.03, Penal Code, a peace officer shall attempt to determine the whereabouts of the child and:

(1) if the child's whereabouts are known, make contact with the alleged offender and locate and return the child to the person entitled to possession of or access to the child; or

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

(b) A peace officer shall make a written report regarding an incident under this article that includes:

(1) the date, time, and location of the alleged offense;

(2) the names of the alleged offender, the complainant, and each child who is the subject of the offense;

(3) whether a court order disposing of the child's custody has been rendered;

(4) if applicable, the name of each party and each

1 child subject to the court order described by Subdivision (3); and
2 (5) if applicable, whether the court order described
3 by Subdivision (3) has been filed with local law enforcement.

4 SECTION 2. Section 25.03, Penal Code, is amended by
5 amending Subsection (c) and adding Subsections (c-3) and (c-4) to
6 read as follows:

7 (c) It is a defense to prosecution under Subsection (a)(2)
8 that the actor returned the child to the geographic area of the
9 counties composing the judicial district if the court is a district
10 court or the county if the court is a statutory county court, within
11 one day [~~three days~~] after the date of the commission of the
12 offense.

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

15 (1) the actor's retention of the child was due to
16 circumstances beyond the actor's control;

17 (2) the actor promptly provided notice or made other
18 reasonable attempts to provide notice of the circumstances
19 described by Subdivision (1) to the other person entitled to
20 possession of or access to the child;

21 (3) the child was returned immediately to the other
22 person entitled to possession of or access to the child when the
23 circumstances described by Subdivision (1) no longer applied; and

24 (4) the circumstances described by Subdivision (1) are
25 not foreseeable and regularly recurring.

26 (c-4) For purposes of Subsection (c-3)(4), it is presumed
27 that the circumstances described by Subsection (c-3)(1) are

1 foreseeable and regularly occurring if those circumstances have
2 prevented the timely return of the child on three or more occasions
3 in the 12-month period preceding the offense.

4 SECTION 3. Section 25.03(b), Penal Code, is repealed.

5 SECTION 4. (a) Article 2.274, Code of Criminal Procedure,
6 as added by this Act, applies only to a report of a violation of
7 Section 25.03, Penal Code, received by a peace officer on or after
8 the effective date of this Act.

9 (b) The changes in law made by this Act to Section 25.03,
10 Penal Code, apply only to an offense committed on or after the
11 effective date of this Act. An offense committed before the
12 effective date of this Act is governed by the law in effect on the
13 date the offense was committed, and the former law is continued in
14 effect for that purpose. For purposes of this subsection, an
15 offense was committed before the effective date of this Act if any
16 element of the offense was committed before that date.

17 SECTION 5. This Act takes effect September 1, 2021.