

By: Menéndez

S.B. No. 2011

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the criminal offense of interference with child custody
3 and a peace officer's duties with respect to that offense;
4 increasing a criminal penalty.

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

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

8 Art. 2.274. INTERFERENCE WITH CHILD CUSTODY REPORT. (a) On
9 receiving a report of a violation of Section 25.03, Penal Code, a
10 peace officer shall attempt to determine the whereabouts of the
11 child and:

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

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

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

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

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

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

1 (4) if applicable, the name of each party and each
2 child subject to the court order described by Subdivision (3); and

3 (5) if applicable, whether the court order described
4 by Subdivision (3) has been filed with local law enforcement.

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

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

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

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

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

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

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

27 (c-4) For purposes of Subsection (c-3)(4), it is presumed

1 that the circumstances described by Subsection (c-3)(1) are
2 foreseeable and regularly occurring if those circumstances have
3 prevented the timely return of the child on three or more occasions
4 in the 12-month period preceding the offense.

5 (d) An offense under this section is a state jail felony,
6 except the offense is a felony of the third degree if it is shown on
7 the trial of the offense that the actor has previously been
8 convicted three or more times of an offense under this section.

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

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

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

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