

1-1 By: Menéndez S.B. No. 2011  
1-2 (In the Senate - Filed March 12, 2021; April 1, 2021, read  
1-3 first time and referred to Committee on State Affairs; May 4, 2021,  
1-4 reported favorably by the following vote: Yeas 9, Nays 0;  
1-5 May 4, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hughes	X		
1-9	Birdwell	X		
1-10	Campbell	X		
1-11	Hall	X		
1-12	Lucio	X		
1-13	Nelson	X		
1-14	Powell	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the criminal offense of interference with child custody  
1-20 and a peace officer's duties with respect to that offense;  
1-21 increasing a criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 2, Code of Criminal Procedure, is  
1-24 amended by adding Article 2.274 to read as follows:

1-25 Art. 2.274. INTERFERENCE WITH CHILD CUSTODY REPORT. (a) On  
1-26 receiving a report of a violation of Section 25.03, Penal Code, a  
1-27 peace officer shall attempt to determine the whereabouts of the  
1-28 child and:

1-29 (1) if the child's whereabouts are known, make contact  
1-30 with the alleged offender and locate and return the child to the  
1-31 person entitled to possession of or access to the child; or

1-32 (2) if the child's whereabouts are unknown, submit a  
1-33 missing child report under Chapter 63.

1-34 (b) A peace officer shall make a written report regarding an  
1-35 incident under this article that includes:

1-36 (1) the date, time, and location of the alleged  
1-37 offense;

1-38 (2) the names of the alleged offender, the  
1-39 complainant, and each child who is the subject of the offense;

1-40 (3) whether a court order disposing of the child's  
1-41 custody has been rendered;

1-42 (4) if applicable, the name of each party and each  
1-43 child subject to the court order described by Subdivision (3); and

1-44 (5) if applicable, whether the court order described  
1-45 by Subdivision (3) has been filed with local law enforcement.

1-46 SECTION 2. Section 25.03, Penal Code, is amended by  
1-47 amending Subsections (c) and (d) and adding Subsections (c-3) and  
1-48 (c-4) to read as follows:

1-49 (c) It is a defense to prosecution under Subsection (a)(2)  
1-50 that the actor returned the child to the geographic area of the  
1-51 counties composing the judicial district if the court is a district  
1-52 court or the county if the court is a statutory county court, within  
1-53 one day [~~three days~~] after the date of the commission of the  
1-54 offense.

1-55 (c-3) It is an affirmative defense to prosecution under  
1-56 Subsection (a)(1) that:

1-57 (1) the actor's retention of the child was due to  
1-58 circumstances beyond the actor's control;

1-59 (2) the actor promptly provided notice or made other  
1-60 reasonable attempts to provide notice of the circumstances  
1-61 described by Subdivision (1) to the other person entitled to

2-1 possession of or access to the child;  
2-2 (3) the child was returned immediately to the other  
2-3 person entitled to possession of or access to the child when the  
2-4 circumstances described by Subdivision (1) no longer applied; and

2-5 (4) the circumstances described by Subdivision (1) are  
2-6 not foreseeable and regularly recurring.

2-7 (c-4) For purposes of Subsection (c-3)(4), it is presumed  
2-8 that the circumstances described by Subsection (c-3)(1) are  
2-9 foreseeable and regularly occurring if those circumstances have  
2-10 prevented the timely return of the child on three or more occasions  
2-11 in the 12-month period preceding the offense.

2-12 (d) An offense under this section is a state jail felony,  
2-13 except the offense is a felony of the third degree if it is shown on  
2-14 the trial of the offense that the actor has previously been  
2-15 convicted three or more times of an offense under this section.

2-16 SECTION 3. Section 25.03(b), Penal Code, is repealed.

2-17 SECTION 4. (a) Article 2.274, Code of Criminal Procedure,  
2-18 as added by this Act, applies only to a report of a violation of  
2-19 Section 25.03, Penal Code, received by a peace officer on or after  
2-20 the effective date of this Act.

2-21 (b) The changes in law made by this Act to Section 25.03,  
2-22 Penal Code, apply only to an offense committed on or after the  
2-23 effective date of this Act. An offense committed before the  
2-24 effective date of this Act is governed by the law in effect on the  
2-25 date the offense was committed, and the former law is continued in  
2-26 effect for that purpose. For purposes of this subsection, an  
2-27 offense was committed before the effective date of this Act if any  
2-28 element of the offense was committed before that date.

2-29 SECTION 5. This Act takes effect September 1, 2021.

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