

BILL ANALYSIS

Senate Research Center
89R8658 MLH-F

S.B. 2794
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

While it is plausible that, in a child custody dispute, either parent may interfere with the other parent's parenting time, currently only the "non-custodial" parent may be charged with a penalty; it is currently not an offense if the custodial parent does the same thing. This bill removes the title of "noncustodial" in describing the parent who commits the offense, as well as removing the title of "custodial" in describing the parent the child is being convinced to leave. In removing the specification that the "noncustodial" parent is the offender and the "custodial" parent is the one whose custody is being interfered with, this allows the law to apply regardless of which parent is interfering with the other parent's court-ordered parenting time.

Additionally, enforcement of child custody interference laws is inconsistent, and there is currently no increased penalty to deter repeat offenders. S.B. 2794 establishes a "three strikes" policy for child custody interference, escalating from a Class C Misdemeanor, punishable by a fine of \$500 for the first offense, to a state jail felony for the third offense. The goal is to help law enforcement prioritize repeat offenders so that habitual offenders face real consequences.

As proposed, S.B. 2794 amends current law relating to the criminal offense of interference with child custody.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 25.03(b) and (d), Penal Code, as follows:

(b) Provides that a parent, rather than a noncustodial parent, commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, the parent, rather than the noncustodial parent, knowingly entices or persuades the child to leave the custody of:

- (1) the other parent, rather than the custodial parent, or a guardian of the child; or
- (2) a person standing in the stead of the parent, rather than in the stead of the custodial parent, or guardian of the child described by Subdivision (1).

(d) Provides that an offense under Subsection (a) (relating to providing that a person commits an offense if the person takes or retains a child younger than 18 years of age when certain circumstances transpire), rather than under Section 25.03 (Interference With Child Custody), is a state jail felony. Provides that an offense under Subsection (b) is a Class C misdemeanor punishable by a fine of \$500, except that the offense is a state jail felony if it is shown on the trial of the offense that the defendant has previously been convicted two or more times of an offense under that subsection or enticed or persuaded the child to leave the state.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2025.