

BILL ANALYSIS

Senate Research Center

H.B. 1259
By: Thompson (Whitmire)
Criminal Justice
5-17-97
Engrossed

DIGEST

In 1993, the legislature reduced interference with child custody from a third degree felony to a state jail felony. The reasoning was that few violators of this law were sent to prison. Some people feel that for some violators of this statute, specifically those who abduct children for extended periods of time or remove them from the state altogether, deserve a punishment longer than the maximum jail time of two years currently provided under the law. Additionally, if a custodial guardian fails to return a child, charges cannot be pressed against that person because the person did not remove the child from the area. This bill would increase the penalty for interference with child custody to a third degree felony or, in certain circumstances, to a second degree felony. Additionally, this bill would provide that retention of a child under certain conditions is a violation of the law under Section 25.03, Penal Code.

PURPOSE

As proposed, H.B. 1259 increases the penalty for interference with child custody to a third degree felony or, in certain circumstances, to a second degree felony. This bill provides that retention of a child under certain conditions is a violation of the law under Section 25.03, Penal Code.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 25.03(a) and (d), Penal Code, to provide that a person commits an offense if he takes or retains a child younger than 18 years when he has not been awarded custody of the child by a court of competent jurisdiction, knows that a suit for divorce or a civil suit or application for habeas corpus to dispose of the child's custody has been filed, and, among other actions, retains the child out of the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, without permission of the court and with the intent to deprive the court of authority over the child. Provides that an offense under this section is a felony of the third degree, rather than a state jail felony, except that the offense is a felony of the second degree if the actor commits the offense for remuneration or the promise of remuneration; or the actor removes the child from the state during the commission of the offense.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.