

FINAL BILL REPORT

HB 2333

C 162 L 94
Synopsis as Enacted

Brief Description: Preventing custodial interference.

By Representatives Eide, Johanson, H. Myers, Heavey,
Wineberry, Karahalios, Brough and Kessler.

House Committee on Judiciary
Senate Committee on Law & Justice

Background: The custodial interference statutes were adopted in 1984, when the family law provisions referred to parents' "lawful right to custody" of their children. After the custodial interference statutes were adopted, the Legislature revised the domestic relations statutes, replacing the term "custody" with "residential time" as determined by "parenting plans." Custodial interference in the second degree has been amended to reflect the change in terminology. Custodial interference in the first degree has not been amended.

A parent is guilty of custodial interference in the first degree if the parent takes a child "for whom no lawful custody order" has been entered from the other parent with intent to deprive the other parent from the child permanently or for a protracted period.

Custodial interference in the second degree applies if a parent takes a child with intent to deny the other parent access to the child and (a) the other parent has a lawful right to time with the child pursuant to a court ordered parenting plan, (b) the parent taking the child has not complied with the residential provisions of a parenting plan after a finding of contempt, or (c) the court finds that the parent taking the child has engaged in a pattern of willful violations of the residential provisions. The domestic relations statutes warn parents that if they violate the terms of the parenting plan they may be charged with custodial interference in the second degree.

The effect of having amended only custodial interference in the second degree to reflect the updated terminology of the parenting plan is that a parent who denies the other parent access to a child when a parenting plan is in effect is guilty only of a gross misdemeanor regardless of the extent or nature of the denial. If a parent removes the child from

the state with the intent to go underground, capturing the parent and returning the child may be very difficult, because law enforcement agencies in other states do not act on misdemeanor warrants from other states.

Summary: The crime of custodial interference in the first degree is amended. A parent of a child commits the offense if the parent takes the child from the other parent having the right to time with the child under a court ordered parenting plan and takes the child with the intent to deny the other parent access to the child, and the parent (1) intends to hold the child permanently or for a protracted period, (2) exposes the child to a substantial risk of illness or injury, or (3) removes the child from the state.

The domestic relations warning provision is amended to provide that violation of the residential provisions of the parenting plan may constitute custodial interference in the first or second degree.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 9, 1994