

SENATE BILL REPORT

HB 2333

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 25, 1994

Brief Description: Preventing custodial interference.

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

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Niemi and Quigley.

Staff: Susan Carlson (786-7418)

Hearing Dates: February 25, 1994

BACKGROUND:

The custodial interference statutes were adopted in 1984 when the family law provisions referred to parents' "lawful right to custody" of their children. Subsequently, the Legislature revised the domestic relations statutes, replacing the term "custody" with "residential time" as determined by "parenting plans." In response, the Legislature amended custodial interference 2nd degree, a gross misdemeanor, to make specific reference to parenting plans.

Custodial interference in the first degree, a class C felony, has not been amended to reference parenting plans. This crime is committed if a relative takes or detains a child, with intent to deny access by the parent or guardian, and one of the following aggravating factors is present: (1) the person holds the child permanently or for a protracted period; (2) the person exposes the child to danger; or (3) the person removes the child from the state. It has been suggested that violations of a parenting plan that involve these aggravating factors should also be a class C felony.

SUMMARY:

Custodial interference in the first degree is amended to provide that a parent commits the crime if the parent takes or conceals a child from the other parent who has a right to time with the child under a parenting plan 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 physical injury; or (3) causes the child to be removed from the state of usual residence.

The warning required on all court orders containing parenting plans that violation of the parenting plan residential provisions may be a criminal offense is amended to include a reference to the custodial interference first degree statute.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The bill enacts felony provisions relating to parenting plans that parallel existing law relating to custody orders.

TESTIMONY AGAINST:

The bill may be used against domestic violence victims who need to leave the state quickly. Also, some parents may not realize their actions constitute a felony crime instead of a gross misdemeanor.

TESTIFIED: PRO: Representative Eide, prime sponsor; Cory Nelson, WA Association of Prosecuting Attorneys; CON: Janet Helson, Evergreen Legal Services; Judy Turpin, NW Women's Law Center; Lonnie Johns-Brown, NOW; Mary Pontarolo, WA State Coalition Against Domestic Violence