
DIGEST

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HB 493 Original

2015 Regular Session

Patrick Williams

Abstract: Creates the crime of violation of a child custody or visitation order, provides a defense to prosecution, and provides criminal penalties including a fine of up to \$500, imprisonment for not more than 30 days, or both.

Present law (R.S. 9:331 et seq.) provides for the issuance of a child custody or visitation order by the court which defines the custody or visitation rights of each parent subject to the order.

Present law (R.S. 9:343) provides for procedures by which a judge is authorized to issue a civil warrant directed to law enforcement authorities to return a child to the custodial parent if the other parent removes or fails to return the child.

Present law (R.S. 9:346) provides a right of action against a parent who fails to exercise or allow child visitation, custody, or time rights pursuant to the terms of a court-ordered schedule. Present law further provides that if the petitioner prevails, the defendant shall be held in contempt of court and the court shall award the petitioner certain court costs, attorney fees, and reimbursement on expenses incurred as a result of the defendant's failure to exercise or allow child visitation, custody, or time rights.

In addition, present law (R.S. 9:346) authorizes the court to award a reasonable penalty to the petitioner against the defendant upon a finding that the failure to allow or exercise visitation, custody, or time rights pursuant to the terms of a court-ordered visitation schedule was intended to harass the petitioner.

Finally, present law (R.S. 9:346) provides that it shall be a defense that the failure to allow or exercise child visitation rights pursuant to a court-ordered schedule was by mutual consent, beyond the control of the defendant, or for other good cause shown.

Proposed law provides that violation of a child custody or visitation order occurs when a person who has a right of custody or a right of visitation pursuant to a court order does any of the following:

- (1) Intentionally fails to comply with the provisions of the order by preventing or interfering with child visitation, custody, or time rights pursuant to the terms of a court-ordered schedule.
- (2) Intentionally inhibits or prevents another person with a right of custody or visitation from exercising that right.

- (3) Intentionally takes, entices, or decoys away a child with the intent to detain or conceal the child from a person having a right of custody or visitation pursuant to a court order or from a person entrusted with the care of the child by a parent having custody or visitation rights pursuant to a court order.

Provides that whoever violates a child custody or visitation order pursuant to proposed law shall be fined not more than \$500, imprisoned for up to 30 days, or both.

Provides that nothing in proposed law limits the liability imposed pursuant to any other provision of law for the failure to comply with a custody or visitation order or limits the ability of a person to seek enforcement of a custody or visitation order pursuant to any other provision of law.

Proposed law provides that it is a defense to prosecution that the violation of the child custody or visitation order was by mutual consent of the parents, beyond the control of the defendant, necessary to protect the welfare of the child, or for other good cause shown.

(Adds R.S. 14:45.2)