

2019 Regular Session

HOUSE BILL NO. 476

BY REPRESENTATIVES JIM MORRIS AND ABRAMSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME: Provides with respect to interference with the custody of a child

1 AN ACT

2 To amend and reenact R.S. 14:45.1, relative to interference with the custody of a child; to
3 provide relative to the elements of the crime; to provide relative to the sufficiency
4 of evidence to establish certain elements of the crime; to establish a justification for
5 law enforcement action; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:45.1 is hereby amended and reenacted to read as follows:

8 §45.1. Interference with the custody of a child

9 A. Interference with the custody of a child is ~~the~~ either of the following:

10 (1) The intentional taking, enticing, or decoying away of a minor child by
11 a parent not having a right of custody, with intent to detain or conceal such child
12 from a parent having a right of custody pursuant to a court order or from a person
13 entrusted with the care of the child by a parent having custody pursuant to a court
14 order.

15 (2) The intentional taking, enticing, or decoying away of a minor child, when
16 there is no court order defining the custody of the child, by a person who is not
17 identified as a parent on the birth certificate of the child and who reasonably believes
18 himself to be a parent of the child, with intent to detain or conceal such child from
19 the sole parent identified on the birth certificate of the child.

1 B. It shall be an affirmative defense that the offender reasonably believed his
2 actions were necessary to protect the welfare of the child.

3 C. When a minor child has been taken, enticed, or decoyed away by the
4 offender from the sole parent of a child as provided in Paragraph (A)(2) of this
5 Section, the birth certificate of that child that identifies the sole parent of the child,
6 but does not identify the offender as a parent of the child, shall be sufficient to
7 establish all of the following only for the purposes of this Section:

8 (1) That the offender does not have a right of custody.

9 (2) That there is justification for law enforcement to return the child to the
10 parent identified in the birth certificate.

11 ~~B.D.~~ Whoever commits the crime of interference with the custody of a child
12 shall be fined not more than five hundred dollars or be imprisoned for not more than
13 six months, or both. Costs of returning a child to the jurisdiction of the court shall
14 be assessed against any defendant convicted of a violation of this Section, as court
15 costs as provided by the Louisiana Code of Criminal Procedure.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 476 Original

2019 Regular Session

Jim Morris

Abstract: Expands the crime of interference with the custody of a child to include the taking of a child under certain circumstances by a person is not identified as a parent on the birth certificate of the child but who believes himself to be a parent of the child.

Present law defines the crime of interference with the custody of a child as the intentional taking, enticing, or decoying away of a minor child by a parent not having a right of custody, with intent to detain or conceal such child from a parent having a right of custody pursuant to a court order or from a person entrusted with the care of the child by a parent having custody pursuant to a court order.

Present law provides an affirmative defense to the crime for an offender who reasonably believed his actions were necessary to protect the welfare of the child.

Present law provides that any person who commits the crime of interference with the custody of a child shall be fined not more than \$500 or be imprisoned for not more than six months, or both.

Proposed law expands the crime of interference with the custody of a child to include the intentional taking, enticing, or decoying away of a minor child, when there is no court order defining the custody of the child, by a person who is not identified as a parent on the birth certificate of the child and who reasonably believes himself to be a parent of the child, with intent to detain or conceal such child from the sole parent identified on the birth certificate of the child.

Any person commits the crime of interference with the custody of a child as defined by proposed law shall be subject to the penalties set forth in present law for this crime.

Proposed law further provides that when a minor child has been taken, enticed, or decoyed away by the offender from the sole parent of a child as provided in proposed law, the birth certificate of that child that identifies the sole parent of the child, but does not identify the offender as a parent of the child, shall be sufficient to establish all of the following only for the purposes of proposed law:

- (1) That the offender does not have a right of custody.
- (2) That there is justification for law enforcement to return the child to the parent identified in the birth certificate.

(Amends R.S. 14:45.1)