
SUBSTITUTE HOUSE BILL 2624

State of Washington 63rd Legislature 2014 Regular Session

By House Judiciary (originally sponsored by Representatives Halder, Tarleton, Klippert, and Freeman)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to clarifying the applicability of child abduction
2 statutes to residential provisions ordered by a court; amending RCW
3 9A.40.060 and 9A.40.070; creating a new section; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 address the Washington supreme court's decision in *State v. Veliz*, 176
8 Wn.2d 849 (2013). The court held that a parent cannot be charged with
9 custodial interference under RCW 9A.40.060(2) if a parent withholds the
10 other parent from having access to the child in violation of
11 residential provisions of a domestic violence protection order. The
12 legislature intends that the provisions of RCW 9A.40.060(2) and
13 9A.40.070(2) be applicable in cases in which a court has entered any
14 order making residential provisions for a child including, but not
15 limited to, domestic violence protection orders that include such
16 residential provisions.

17 **Sec. 2.** RCW 9A.40.060 and 1998 c 55 s 1 are each amended to read
18 as follows:

1 (1) A relative of a child under the age of eighteen or of an
2 incompetent person is guilty of custodial interference in the first
3 degree if, with the intent to deny access to the child or incompetent
4 person by a parent, guardian, institution, agency, or other person
5 having a lawful right to physical custody of such person, the relative
6 takes, entices, retains, detains, or conceals the child or incompetent
7 person from a parent, guardian, institution, agency, or other person
8 having a lawful right to physical custody of such person and:

9 (a) Intends to hold the child or incompetent person permanently or
10 for a protracted period; or

11 (b) Exposes the child or incompetent person to a substantial risk
12 of illness or physical injury; or

13 (c) Causes the child or incompetent person to be removed from the
14 state of usual residence; or

15 (d) Retains, detains, or conceals the child or incompetent person
16 in another state after expiration of any authorized visitation period
17 with intent to intimidate or harass a parent, guardian, institution,
18 agency, or other person having lawful right to physical custody or to
19 prevent a parent, guardian, institution, agency, or other person with
20 lawful right to physical custody from regaining custody.

21 (2) A parent of a child is guilty of custodial interference in the
22 first degree if the parent takes, entices, retains, detains, or
23 conceals the child, with the intent to deny access, from the other
24 parent having the lawful right to time with the child pursuant to a
25 (~~court ordered parenting plan~~) court order making residential
26 provisions for the child, and:

27 (a) Intends to hold the child permanently or for a protracted
28 period; or

29 (b) Exposes the child to a substantial risk of illness or physical
30 injury; or

31 (c) Causes the child to be removed from the state of usual
32 residence.

33 (3) A parent or other person acting under the directions of the
34 parent is guilty of custodial interference in the first degree if the
35 parent or other person intentionally takes, entices, retains, or
36 conceals a child, under the age of eighteen years and for whom no
37 lawful custody order or (~~parenting plan~~) order making residential

1 provisions for the child has been entered by a court of competent
2 jurisdiction, from the other parent with intent to deprive the other
3 parent from access to the child permanently or for a protracted period.

4 (4) Custodial interference in the first degree is a class C felony.

5 **Sec. 3.** RCW 9A.40.070 and 2003 c 53 s 66 are each amended to read
6 as follows:

7 (1) A relative of a person is guilty of custodial interference in
8 the second degree if, with the intent to deny access to such person by
9 a parent, guardian, institution, agency, or other person having a
10 lawful right to physical custody of such person, the relative takes,
11 entices, retains, detains, or conceals the person from a parent,
12 guardian, institution, agency, or other person having a lawful right to
13 physical custody of such person. This subsection shall not apply to a
14 parent's noncompliance with a (~~court-ordered parenting plan~~) court
15 order making residential provisions for the child.

16 (2) A parent of a child is guilty of custodial interference in the
17 second degree if: (a) The parent takes, entices, retains, detains, or
18 conceals the child, with the intent to deny access, from the other
19 parent having the lawful right to time with the child pursuant to a
20 (~~court-ordered parenting plan~~) court order making residential
21 provisions for the child; or (b) the parent has not complied with the
22 residential provisions of a court-ordered parenting plan after a
23 finding of contempt under RCW 26.09.160(3); or (c) if the court finds
24 that the parent has engaged in a pattern of willful violations of (~~the~~
25 ~~court-ordered~~) a court order making residential provisions for the
26 child.

27 (3) Nothing in subsection (2)(b) of this section prohibits
28 conviction of custodial interference in the second degree under
29 subsection (2)(a) or (c) of this section in absence of findings of
30 contempt.

31 (4)(a) The first conviction of custodial interference in the second
32 degree is a gross misdemeanor.

33 (b) The second or subsequent conviction of custodial interference
34 in the second degree is a class C felony.

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