

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Pollan**

A Bill

ACT 1343 OF 1995
HOUSE BILL 2166

For An Act To Be Entitled

"AN ACT TO AMEND ARK. CODE 5-26-502 RELATING TO THE
CRIMINAL OFFENSE OF INTERFERENCE WITH CUSTODY; AND FOR
OTHER PURPOSES."

Subtitle

"AN ACT TO AMEND ARK. CODE 5-26-502
RELATING TO THE CRIMINAL OFFENSE OF
INTERFERENCE WITH CUSTODY."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Ark. Code 5-26-502 is amended to read as follows:

"§ 5-26-502. Interference with custody.

(a) (1) A person commits the offense of interference with court ordered custody if, knowing that he or she has no lawful right to do so, he or she takes, entices, or keeps any minor from any person entitled by a court decree or order to the right of custody of the minor.

(2) A person commits the offense of interference with custody if, without lawful authority, he or she knowingly or recklessly takes or entices, or aids, abets, hires, or otherwise procures another to take or entice, any minor or any incompetent person from the custody of his parent, his guardian, a public agency having lawful charge of the child or incompetent person or any other lawful custodian.

(b) (1) Interference with court ordered custody is a Class D felony if the minor is taken, enticed, or kept without the State of Arkansas. Otherwise, it is a Class A misdemeanor.

(2) Interference with custody is a Class C felony.

(c) (1) In every case prior to serving a warrant for arrest on a person charged with the offense of interference with court ordered custody, the

1 police officer or other law enforcement officer shall inform the Department of
2 Human Services of the circumstances of any minor named in the information or
3 indictment as having been taken, enticed, or kept from the custodian in a
4 manner constituting interference with court ordered custody.

5 (2) A representative of the Department of Human Services shall be
6 present with the arresting officer to take the minor into temporary custody of
7 the Department of Human Services pending further proceedings by a court of
8 competent jurisdiction.

9 (d)(1) A court of competent jurisdiction shall determine the immediate
10 custodial placement of all these minors pursuant to a petition brought by the
11 Department of Human Services or an agency thereof to determine if there is
12 probable cause to believe the minor may be removed from the jurisdiction of
13 the court, may be abandoned, or may be without the immediate care or support
14 of one lawfully entitled to custody.

15 (2) The court shall immediately give custody to the lawful
16 custodian if it finds that the lawful custodian is present before the court.

17 (e)(1) The petitioner shall comply with the requirements of § 9-27-334
18 [repealed] with regard to the giving of a notice and setting of hearings.

19 (2) The petitioner shall be immune from liability with respect to
20 any conduct undertaken pursuant to this section unless it is determined the
21 petitioner acted with actual malice."
22

23 SECTION 2. All provisions of this act of a general and permanent nature
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
25 Revision Commission shall incorporate the same in the Code.
26

27 SECTION 3. If any provision of this act or the application thereof to
28 any person or circumstance is held invalid, such invalidity shall not affect
29 other provisions or applications of the act which can be given effect without
30 the invalid provision or application, and to this end the provisions of this
31 act are declared to be severable.
32

33 SECTION 4. All laws and parts of laws in conflict with this act are
34 hereby repealed.
35

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

APPROVED: 4-17-95

