

Hall of the House of Representatives
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 1766

"AN ACT TO AMEND THE ARKANSAS JUVENILE CODE OF 1989."

Amendment No. 3 to House Bill No. 1766.

Amend House Bill No. 1766 as engrossed, H3/2/01:

Page 30, delete line 27 and substitute "similar trips.

(e)(1) It shall be the duty of every person granted custody, guardianship, or adoption of any juvenile in a proceeding pursuant to or arising out of a dependency-neglect action under the Arkansas Juvenile Code to ensure that the juvenile is not returned to the care or supervision of any person from whom the child was removed or any person the court has specifically ordered not to have care, supervision, or custody of the juvenile.

(2) This section shall not be construed to prohibit these placements if the person who has been granted custody, guardianship, or adoption obtains a court order to that effect from the juvenile court that made the award of custody, guardianship, or adoption.

(3) Failure to abide by subdivision (e)(1) of this section is punishable as a criminal offense pursuant to § 5-26-502(a)(3).

SECTION 16. Arkansas Code 5-26-502 is amended to read as follows:
5-26-502. Interference with Custody.

(a)(1)(A) 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.

(B)(i) Interference with court-ordered custody is a Class D felony if the minor is taken, enticed, or kept without the State of Arkansas.

(ii) Otherwise, it is a Class A misdemeanor.

(2)(A) A person commits the offense of interference with court-ordered 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:

- (i) The minor's or incompetent person's parent;
- (ii) The minor's or incompetent person's guardian;
- (iii) A public agency having lawful charge of the

minor or incompetent person; or

(iv) Any other lawful custodian.

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

(3)(A)(i) A person commits the offense of interference with custody if he or she has been awarded custody or granted an adoption or guardianship of a juvenile pursuant to or arising out of a dependency-neglect action pursuant to the Juvenile Code who subsequently places the juvenile in the care or supervision of any person from whom the child was removed or any person the court has specifically ordered not have care, supervision, or custody of the juvenile.

(ii) This subdivision shall not be construed to prohibit these placements if the person who has been granted custody, adoption, or guardianship obtains a court order to that effect from the juvenile court who made the award of custody, adoption, or guardianship.

(B)(i) Interference with custody ordered pursuant to subdivision (a)(3)(A) of this section is a Class A misdemeanor.

(ii) Second and subsequent offenses shall constitute a Class C felony.

(4)(A) A person commits the offense of interference with court-ordered custody if he or she accepts or acquiesces in taking physical custody for any length of time of a juvenile who was removed from that person or if the court has specifically ordered that person not have care, supervision, or custody of the juvenile pursuant to or arising out of a dependency-neglect action pursuant to the Juvenile Code.

(B)(i) Interference with custody ordered pursuant to subdivision (a)(4)(A) of this section is a Class A misdemeanor.

(ii) Second and subsequent offenses shall constitute a Class C felony.

(b)(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 police officer or other law enforcement officer shall inform the Department of Human Services of the circumstances of any minor named in the information or indictment as having been taken, enticed, ~~or~~ kept from the custodian in a manner constituting interference with court-ordered custody, or placed with a person prohibited under subdivision (a)(3)(A) of this section.

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

(c)(1) A court of competent jurisdiction shall determine the immediate custodial placement of all these minors pursuant to a petition brought by the Department of Human Services or an agency thereof to determine if there is probably cause to believe the minor:

(A) May be removed from the jurisdiction of the court;

(B) May be abandoned; or

(C) May be without the immediate care or supervision of one lawfully entitled to custody.

(c)(2) Except in situations arising under subdivisions (a)(3)(A) or (a)(4)(A) of this section, the court shall immediately give custody to the lawful custodian if it finds that the lawful custodian is present before the court.

(d)(1) The petitioner shall comply with the requirements with regard

to the giving of a notice and setting of hearings.

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

The Amendment was read _____

By: Representative Dees

MG/VJF

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Chief Clerk