

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1704

By: Representatives Pollan and Hays

"AN ACT TO AMEND SECTION 2 ACT 540 OF 1985 [ARK. STAT. 41-2416], TO TRANSFER CERTAIN CHILDREN IN THE CUSTODY OF AN UNLAWFUL CUSTODIAN TO THEIR LAWFUL CUSTODIAN OR THE DEPARTMENT OF HUMAN SERVICES; TO PROVIDE FOR A HEARING; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 2 of Act 540 of 1985, the same being Arkansas Statutes 41-2416, is hereby amended to read as follows:

"Section 2. (a) A person commits the offense of interference with custody if, knowing that he or she has no lawful right to do, he or she takes, entices or keeps any minor entitled by a court decree or order to the right of custody of the minor.

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

(c) In every case prior to serving a warrant for arrest on a person charged with the offense of interference with 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 custody. A representative of the Department of Human Services shall be present with the arresting officer to take such minor into temporary custody of the Department of Human Services pending further proceedings by a court of competent jurisdiction. A court of competent jurisdiction shall determine the immediate custodial placement of all such minors pursuant to a petition brought by the Department of Human Services or an agency thereof to determine if there is probable cause to believe the minor may be removed from

the jurisdiction of the court, may be abandoned, or without the immediate care or support of one lawfully entitled to custody. Provided, however, the court shall immediately give custody to the lawful custodian if it finds that the lawful custodian is present before the court. The petitioner shall comply with the requirements of Section 38 of Act 451 of 1975, as amended, with regard to the giving of a notice and setting of hearings. 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."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

