

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

A Bill

HOUSE BILL 2166

For An Act To Be Entitled

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

Subtitle

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

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

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

20 "§ 5-26-502. Interference with custody.

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

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

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

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

35 (c)(1) In every case prior to serving a warrant for arrest on a person

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

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

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

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

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

20 (2) The petitioner shall be immune from liability with respect
21 to any conduct undertaken pursuant to this section unless it is determined
22 the petitioner acted with actual malice."
23

24 SECTION 2. All provisions of this act of a general and permanent
25 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
26 Code Revision Commission shall incorporate the same in the Code.
27

28 SECTION 3. If any provision of this act or the application thereof to
29 any person or circumstance is held invalid, such invalidity shall not affect
30 other provisions or applications of the act which can be given effect without
31 the invalid provision or application, and to this end the provisions of this
32 act are declared to be severable.
33

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

