

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1714

4
5 By: Representative Pate
6
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE OFFENSE OF INTERFERENCE WITH
10 CUSTODY; TO ESTABLISH PROCEDURES FOR THE
11 DEPARTMENT OF HEALTH AND HUMAN SERVICES IN CASES
12 INVOLVING THE OFFENSE OF INTERFERENCE WITH
13 CUSTODY; AND FOR OTHER PUPROSES.
14

Subtitle

15
16 TO CREATE THE OFFENSE OF INTERFERENCE
17 WITH CUSTODY AND TO ESTABLISH PROCEDURES
18 FOR THE DEPARTMENT OF HEALTH AND HUMAN
19 SERVICES IN CASES INVOLVING THE OFFENSE
20 OF INTERFERENCE WITH CUSTODY.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 5, Chapter 26, Subchapter 5 is amended
26 to add an additional section to read as follows:

27 5-26-503. Interference with custody.

28 (a) A person commits the offense of interference with custody if
29 without lawful authority he or she knowingly takes or entices, or aids,
30 abets, hires, or otherwise procures another person to take or entice any
31 minor or any incompetent person from the custody of:

32 (1) The parent of the minor or incompetent person including an
33 unmarried woman having legal custody of an illegitimate child under § 9-10-
34 113;

35 (2) The guardian of the minor or incompetent person;

36 (3) A public agency having lawful charge of the minor or



1 incompetent person; or

2 (4) Any other lawful custodian.

3 (b) Interference with custody is a Class C felony.

4 (c)(1) In every case prior to serving a warrant for arrest on a person
5 charged with the offense of interference with custody, the police officer or
6 other law enforcement officer shall inform the Department of Health and Human
7 Services of the circumstances of any minor or incompetent person named in the
8 information or indictment as having been taken, enticed, or kept from the
9 parent, guardian, or custodian in a manner constituting interference with
10 custody.

11 (2) A representative of the department shall be present with the
12 arresting police officer or law enforcement officer to take the minor or
13 incompetent person into temporary custody of the department pending further
14 proceedings by a court of competent jurisdiction.

15 (d)(1) A court of competent jurisdiction shall determine the immediate
16 custodial placement of any minor or incompetent person taken into custody by
17 the department under subsection (c) of this section pursuant to a petition
18 brought by the department to determine if there is probable cause to believe
19 the minor or incompetent person may be:

20 (A) Removed from the jurisdiction of the court;

21 (B) Abandoned; or

22 (C) Outside the immediate care or supervision of a person
23 lawfully entitled to custody.

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

26 (e)(1) The department shall comply with the requirements of § 9-27-312
27 with regard to the giving of a notice and the setting of a hearing on a
28 petition filed under subsection (d) of this section.

29 (2) The department is immune from liability with respect to any
30 conduct undertaken pursuant to this section unless it is determined that the
31 department acted with actual malice.

32
33
34
35
36