Reprinted
February 24, 2007

HOUSE BILL No. 1019

DIGEST OF HB 1019 (Updated February 23, 2007 5:33 pm - DI 114)

Citations Affected: IC 35-42; noncode.

Synopsis: Interference with custody. Provides that a person who commits interference with custody must intend to deprive another person of custody rights. Eliminates the condition that, for an individual to commit the offense of interference with custody by failing to return a child to Indiana, the individual must have taken the child outside Indiana. Eliminates the condition under which an individual who takes or detains a child with intent to deprive another of custody or parenting time does not commit the offense of interference with custody unless the individual conceals the child. Provides that an individual who conceals a child with the intent to deprive another of custody or parenting time commits interference with custody even if the individual did not take or detain the child. Provides a defense if the accused person: (1) was threatened; or (2) reasonably believed the child was threatened.

Effective: July 1, 2007.

Duncan, Summers

January 8, 2007, read first time and referred to Committee on Judiciary.
February 19, 2007, amended, reported — Do Pass.
February 23, 2007, read second time, amended, ordered engrossed.

C o p y

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1019

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-42-3-4, AS AMENDED BY P.L.68-2005, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A person who, **with the intent to deprive another person of child custody rights,** knowingly or intentionally:

(1) removes another person who is less than eighteen (18) years of age to a place outside Indiana when the removal violates a child custody order of a court; or

(2) ~~removes another person who is less than eighteen (18) years of age to a place outside Indiana and~~ violates a child custody order of a court by failing to return ~~the other~~ **a** person **who is less than eighteen (18) years of age** to Indiana;

commits interference with custody, a Class D felony. However, the offense is a Class C felony if the other person is less than fourteen (14) years of age and is not the person's child, and a Class B felony if the offense is committed while armed with a deadly weapon or results in serious bodily injury to another person.

(b) A person who with the intent to deprive another person of

custody or parenting time rights:

(1) knowingly or intentionally takes; ~~and conceals; or~~

(2) knowingly or intentionally detains; ~~and conceals;~~ **or**

(3) knowingly or intentionally conceals;

a person who is less than eighteen (18) years of age commits interference with custody, a Class C misdemeanor. However, the offense is a Class B misdemeanor if the taking, ~~and~~ concealment, or ~~the~~ detention ~~and concealment,~~ is in violation of a court order.

(c) With respect to a violation of this section, a court may consider as a mitigating circumstance the accused person's return of the other person in accordance with the child custody order **or parenting time order** within seven (7) days after the removal.

(d) The offenses described in this section continue as long as the child is concealed or detained or both.

(e) If a person is convicted of an offense under this section, a court may impose against the defendant reasonable costs incurred by a parent or guardian of the child because of the taking, detention, or concealment of the child.

(g) It is a defense to a prosecution under this section that the accused person:

(1) was threatened; or

(2) reasonably believed the child was threatened;

which resulted in the child not being timely returned to the other parent resulting in a violation of a child custody order.

SECTION 2. [EFFECTIVE JULY 1, 2007] **IC 35-42-3-4, as amended by this act, applies only to crimes committed after June 30, 2007.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1019, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "who" and insert "who, **with the intent to deprive another person of child custody rights**,".

Page 1, line 6, delete "or parenting time order".

Page 1, line 9, delete "or parenting time order".

and when so amended that said bill do pass.

(Reference is to HB 1019 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1019 be amended to read as follows:

Page 1, line 4, delete "rights" and insert "**rights,**".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"**(g) It is a defense to a prosecution under this section that the accused person:**

(1) was threatened; or

(2) reasonably believed the child was threatened;

which resulted in the child not being timely returned to the other parent resulting in a violation of a child custody order.".

(Reference is to HB 1019 as printed February 20, 2007.)

FOLEY

C o p y