



2007 ASSEMBLY BILL 917

March 5, 2008 - Introduced by Representatives ALBERS, SEIDEL and BERCEAU.
Referred to Committee on Children and Family Law.

1 **AN ACT** *to renumber and amend* 948.31 (1); *to amend* 948.31 (2), 948.31 (3)
2 (b) and 948.31 (3) (c); and *to create* 948.31 (1g) of the statutes; **relating to:**
3 interfering with custody of a child.

Analysis by the Legislative Reference Bureau

Under current law, a person who interferes with the custody of a child is guilty of a felony. A person interferes with custody if he or she does one of the following without the consent of a person who has legal custody of the child: causes the child to leave; takes the child away; or withholds the child for more than 12 hours. Under *State v. Bowden*, 2007 WI App 234 (Wis. Ct. App. 2007), the court interpreted "causes to leave" to include engaging in some sort of mental, rather than physical, manipulation by doing things to persuade the child to leave the parent. This bill codifies "mental manipulation" as part of the definition of "causes" to clarify that the legislature intends such manipulation to be included. In addition, under this bill a person interferes with custody if he or she causes a child not to return to the child's legal custodian without consent.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 948.31 (1) of the statutes is renumbered 948.31 (1r), and 948.31 (1r)
5 (b), as renumbered, is amended to read:

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1 948.31 (1r) (b) Except as provided under chs. 48 and 938, whoever intentionally
2 causes a child to leave from or not return to, takes a child away from, or withholds
3 a child for more than 12 hours beyond the court-approved period of physical
4 placement or visitation period from a legal custodian with intent to deprive the
5 custodian of his or her custody rights without the consent of the custodian is guilty
6 of a Class F felony. This paragraph is not applicable if the court has entered an order
7 authorizing the person to so take or withhold the child. The fact that joint legal
8 custody has been awarded to both parents by a court does not preclude a court from
9 finding that one parent has committed a violation of this paragraph.

10 **SECTION 2.** 948.31 (1g) of the statutes is created to read:

11 948.31 (1g) In this section, “causes a child to leave from or not return to” or
12 “causes the child to leave or not return” includes mental manipulation to persuade
13 the child to leave or not to return.

14 **SECTION 3.** 948.31 (2) of the statutes is amended to read:

15 948.31 (2) Whoever causes a child to leave from or not return to, takes a child
16 away from, or withholds a child for more than 12 hours from the child’s parents or,
17 in the case of a nonmarital child whose parents do not subsequently intermarry
18 under s. 767.803, from the child’s mother or, if he has been granted legal custody, the
19 child’s father, without the consent of the parents, the mother, or the father with legal
20 custody, is guilty of a Class I felony. This subsection is not applicable if legal custody
21 has been granted by court order to the person taking or withholding the child.

22 **SECTION 4.** 948.31 (3) (b) of the statutes is amended to read:

23 948.31 (3) (b) After being served with process in an action affecting the family
24 but prior to the issuance of a temporary or final order determining child custody

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1 rights, takes the child or causes the child to leave or not return with intent to deprive
2 the other parent of physical custody as defined in s. 822.02 (14).

3 **SECTION 5.** 948.31 (3) (c) of the statutes is amended to read:

4 948.31 (3) (c) After issuance of a temporary or final order specifying joint legal
5 custody rights and periods of physical placement, takes a child from or causes a child
6 to leave from or not return to the other parent in violation of the order or withholds
7 a child for more than 12 hours beyond the court-approved period of physical
8 placement or visitation period.

9 (END)