

2001 DRAFTING REQUEST

Bill

Received: 02/22/2001

Received By: kahlepj

Wanted: 02/27/2001

Identical to LRB:

For: Gregg Underheim (608) 266-2254

By/Representing: Dagny Coe

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters: kahlepj

Subject: Criminal Law - miscellaneous
 Criminal Law - crimes agnst kids
 Dom. Rel. - cust. and plac.

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Interference with the custody of a child

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 02/22/2001	jdyer 02/23/2001					Local
/1		jdyer 05/03/2001	pgreensl 02/26/2001		lrb_docadmin 02/26/2001		Local
/2			jfrantze		lrb_docadmin	lrb_docadmin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			05/04/2001 _____		05/04/2001	05/04/2001	

FE Sent For: 03/05/2001, 03/05/2001, 03/05/2001, 03/05/2001.

L "1/2" sent for 1st intro. <END>

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/?	mdsida 02/22/2001	jdye 02/23/2001					Local
/1		1/2 5/3 jld	pgreensl 02/26/2001		lrb docadmin 02/26/2001		

FE Sent For:

Handwritten initials and dates: 5/3, 5/5, 5/5

<END>

Handwritten note: For Assembly

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1?	mdsida	1 2/23 jld	2/26 PG	2/26 PG/RS			

FE Sent For:

<END>

2-22

Dagney from Underheim's Office

(6-2254)

Redraft AB 689 from last session

(LRB-1599/2)

they would like to send it out for review

on 2-28



State of Wisconsin
1999 - 2000 LEGISLATURE

2617/1
LRB-1599/2
JNO & PJK:jsj
MGD
jld

2001 Bill

1999 ASSEMBLY BILL 689

needed
2-27
by end of day

February 1, 2000 - Introduced by Representatives UNDERHEIM, AINSWORTH, KELSO, OWENS, ALBERS and OLSEN, cosponsored by Senators A. LASEE, DARLING and WELCH. Referred to Committee on Family Law.

regenerate ↓

- 1 AN ACT to renumber and amend 948.31 (2) and 948.31 (3) (c); to amend 767.23
- 2 (1n) and 948.31 (1) (b); and to create 948.31 (1) (am), 948.31 (2) (a), 948.31 (3m)
- 3 (a) and 968.077 of the statutes; relating to: interference with the custody of a
- 4 child and providing a penalty. ✓

Analysis by the Legislative Reference Bureau

Current law prohibits a person from interfering with the custody of a child. A person violates the prohibition against interfering with custody by withholding a child for more than 12 hours from his or her parents or from a single parent with legal custody without consent of the parents or the single parent with legal custody. A person who violates the prohibition against interfering with the custody of a child in this manner may be fined not more than \$10,000 or imprisoned for not more than two years or both, if the offense occurs before December 31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than five years or both, if the offense occurs on or after December 31, 1999. plain

A person also violates the prohibition against interfering with custody by withholding a child from his or her legal custodian for more than 12 hours beyond a court-approved period of physical placement or visitation, if the person withholds the child without the custodian's consent and with the intent to deprive the custodian of his or her custody rights. A person who violates the prohibition against interfering with the custody of a child in this manner may be fined not more than \$10,000 or imprisoned for not more than ten years or both, if the offense occurs before December

ASSEMBLY BILL 689

31, 1999, or may be fined not more than \$10,000 or imprisoned for not more than 15 years or both, if the offense occurs on or after December 31, 1999.

This bill provides that a person violates the prohibition against interfering with the custody of a child if he or she withholds the child from his or her parents or from a single parent with legal custody for more than three hours or if he or she withholds a child from his or her legal custodian for more than three hours beyond a court-approved period of physical placement or visitation. A person who violates the prohibition against interfering with the custody of a child by withholding the child for more than three hours may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

The bill also provides that, if a court has ordered that both parents have legal custody and periods of physical placement of a child and one parent takes the child from or causes the child to leave the other parent in violation of the order or withholds the child for more than three hours beyond the court-approved period of physical placement or visitation, the other parent may request a law enforcement agency in the jurisdiction in which the first parent is located to assist in locating and returning the child. A law enforcement agency must assist in locating and returning the child of a parent who makes a request for assistance if the parent provides the law enforcement agency with a certified copy of the court order specifying joint legal custody rights and periods of physical placement.

Finally, under current law a summons in an action affecting the family, such as a divorce, in which the parties have a minor child must include notification of the statute that prohibits interference with the custody of a child. Also under current law, a final judgment in an action affecting the family in which custody of, or physical placement with, a minor child was determined must include notification of the statute that prohibits interference with the custody of a child. Under this bill, if a judge or family court commissioner in an action affecting the family grants legal custody of a minor child or periods of physical placement with a minor child temporarily during the pendency of the action, the temporary order must also include notification of the statute that prohibits interference with the custody of a child.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

PWF

1 SECTION 1. 767.23 (1n) of the statutes is amended to read:

2 767.23 (1n) Before making any temporary order under sub. (1), the court or

3 family court commissioner shall consider those factors ~~which~~ that ~~←~~ plain the court is required

4 by this chapter to consider before entering a final judgment on the same subject

ASSEMBLY BILL 689

plain

In making a determination under sub. (1)(a) or (am), the court or family court commissioner shall consider the factors

matter. If the court or family court commissioner makes a temporary child support order that deviates from the amount of support that would be required by using the percentage standard established by the department under s. 49.22 (9), the court or family court commissioner shall comply with the requirements of s. 767.25 (1n). A temporary order under sub. (1) may be based upon the written stipulation of the parties, subject to the approval of the court or the family court commissioner. Temporary orders made by the family court commissioner may be reviewed by the court as provided in s. 767.13 (6). A temporary order granting legal custody of a minor child or periods of physical placement with a minor child shall include notification of the contents of s. 948.31.

PWF

Insert 3-10

SECTION 2. 948.31 (1) (am) of the statutes is created to read:

948.31 (1) (am) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 3 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class A misdemeanor. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child.

SECTION 3. 948.31 (1) (b) of the statutes is amended to read:

948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class C felony. This paragraph is

PWF

ASSEMBLY BILL 689

SECTION 3

1 not applicable if the court has entered an order authorizing the person to so take or
2 withhold the child.

3 (c) The fact that joint legal custody has been awarded to both parents by a court
4 does not preclude a court from finding that one parent has committed a violation of
5 ~~this paragraph~~ [✓] par. (am) or (b).

6 SECTION 4. 948.31 (2) [✓] of the statutes is renumbered 948.31 (2) (b) and amended
7 to read:

8 948.31 (2) (b) Whoever causes a child to leave, takes a child away [^] or withholds
9 a child for more than 12 hours from the child's parents or, in the case of ² a nonmarital
10 child whose parents do not subsequently intermarry under s. 767.60, from the child's
11 mother or, if he has been granted legal custody, the child's father, without the consent
12 of the parents, the mother ² or the father with legal custody, is guilty of a Class E
13 felony. ~~This subsection~~ ² ~~paragraph~~ [✓] is not applicable if legal custody has been granted
14 by court order to the person taking or withholding the child.

15 SECTION 5. 948.31 (2) (a) [✓] of the statutes is created to read:

16 948.31 (2) (a) Whoever causes a child to leave, takes a child away [^] or withholds
17 a child for more than ³ 3 hours from the child's parents or, in the case of ³ a nonmarital
18 child whose parents do not subsequently intermarry under s. [✓] 767.60, from the child's
19 mother or, if he has been granted legal custody, the child's father, without the consent
20 of the parents, the mother [^] or the father with legal custody, is guilty of a Class A
21 misdemeanor. ³ ~~This paragraph~~ [✓] is not applicable if legal custody has been granted by
22 court order to the person taking or withholding the child.

23 SECTION 6. 948.31 (3) (c) [✓] of the statutes is renumbered 948.31 [✓] (3m) (b) and
24 amended to read:

PWF

ASSEMBLY BILL 689

PWF

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948.31 (3m) (b) ~~After Any parent, or any person acting pursuant to directions from the parent, who, after issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period is guilty of a Class C felony.~~

SECTION 7. 948.31 (3m) (a) of the statutes is created to read:

948.31 (3m) (a) Any parent, or any person acting pursuant to directions from the parent, who, after issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 3 hours beyond the court-approved period of physical placement or visitation period is guilty of a Class A misdemeanor.

SECTION 8. 968.077 of the statutes is created to read:

968.077 Interference with child custody or physical placement; assistance to parent. If a parent of a child alleges that his or her legal custody or period of physical placement of the child is being interfered with by the other parent of the child in violation of s. 948.31 (3m), the parent may request a law enforcement agency in the jurisdiction in which the other parent is present to assist in locating and returning the child. A law enforcement agency shall assist in locating and returning the child of a parent who makes a request under this section if the parent provides the law enforcement agency with a certified copy of the temporary or final order specifying joint legal custody rights and periods of physical placement that is allegedly being violated by the other parent.

SECTION 9. Initial applicability.

ASSEMBLY BILL 689

1 (1) INTERFERENCE WITH CUSTODY. The treatment of section 948.31 (1) (am) (b),
 2 (3) (c) and (3m) (a) of the statutes, the renumbering and amendment of section 948.31
 3 (2) of the statutes, and the creation of section 948.31 (2) (a) of the statutes first apply
 4 to offenses committed on the effective date of this subsection.

5 (2) ORDERS GRANTING LEGAL CUSTODY OR PHYSICAL PLACEMENT. The treatment of
 6 section 767.23 (1n) of the statutes first apply to temporary orders made on the
 7 effective date of this subsection.

(END)

applies

TEMPORARY ← CS

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-26177/ins
PJK.....

INSERT 3-10

1 **SECTION 1.** 767.51 (3) (b) ✓ of the statutes is amended to read:

2 767.51 (3) (b) Orders for the legal custody of and periods of physical placement
3 with the child, determined in accordance with, and otherwise ✓ in compliance with, s.
4 767.24.

History: 1979 c. 352; 1983 a. 27, 192, 447; 1985 a. 29; 1985 a. 315 s. 22; 1987 a. 27, 37, 355, 413; 1989 a. 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7115, 7116, 9126 (19); 1995 a. 100, 201, 279, 375, 404; 1997 a. 27, 35, 191; 1999 a. 9.

5 **SECTION 2.** 767.62 (4) (a) ✓ of the statutes is amended to read:

6 767.62 (4) (a) Orders for the legal custody of and periods of physical placement
7 with the child, determined in accordance with, and otherwise in compliance with, ✓ s.
8 767.24.

History: 1993 a. 481; 1995 a. 100; 1997 a. 191; 1999 a. 9.

(END OF INSERT 3-10)

Dsida, Michael

From: Coe, Dagny
Sent: Monday, March 05, 2001 11:44 AM
To: Dsida, Michael
Subject: LRB-2617, interference with child custody

Importance: High

Hi Michael,

I AM SO SORRY that I forgot to tell you that LRB-2617 needs to be drafted as the amended version of 1999-2000 AB689, authored by Rep. Underheim.

Would you please redraft interference with child custody as such and jacket at the same time?

I was not in this office when AB689 was introduced. Let me know what else you might need. THANK YOU!

Dsida, Michael

From: Coe, Dagny
Sent: Thursday, April 05, 2001 12:24 PM
To: Dsida, Michael
Subject: RE: LRB2617/1

Importance: High

Hi Mike!

Gregg wants the legislation drafted:

- if a court order exists, law enforcement must assist in returning child
- misdemeanor
- 6 hours

Please email or give me a call at 6-2254 with any questions.

**THANK YOU
FOR YOUR
PATIENCE AND
UNDERSTANDING!**

You are appreciated!

-----Original Message-----

From: Dsida, Michael
Sent: Tuesday, March 20, 2001 4:40 PM
To: Coe, Dagny
Subject: RE: LRB2617/1

> -----Original Message-----

> **From:** Coe, Dagny
> **Sent:** Tuesday, March 20, 2001 12:57 PM
> **To:** Dsida, Michael
> **Subject:** LRB2617/1
> **Importance:** High

>

- > Hi Mike,
> I needed to touch base with you regarding LRB2617/1,
> interference with child custody. I have been looking over
> notes from introduction last biennium and the following are
> several questions/concerns I have with the present LRB:
> * It needs to be six hours instead of three

Based on the instructions that you gave me two weeks ago, I have already made this change.

- > * The felony became a misdemeanor

I'm not sure what you mean by this. If you are asking that a case in which the interference lasts for more than 6 but less than 12 hours be treated as a misdemeanor, the bill already does this. See, e.g., s. 948.31 (1) (am). If you need the bill to do something else, please let me know.

- > * if a court order exists, law enforcement must assist in
> returning child (this is the one you were concerned about, correct?)

>

Yes. When you decide how you want this provision to work, please let me know.

- > a temporary order or periods of physical placement must
> include reference to state statute

Memo

Attached is a fiscal estimate prepared for a draft that has not yet been introduced.

LRB Number: LRB 01 -2617

Version: "/ 1 "

Requested By: Underheim

Entered In Computer And Copy Sent To Requestor:

03 / 07 / 01

Fiscal Estimate Prepared By: (agency abbr.) DA

sent again
05-15-2001

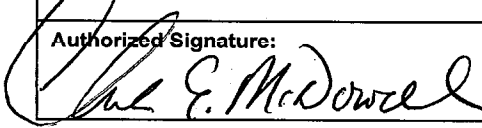
To: LRB – Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
- If this draft gets **introduced** ... and the version of the attached fiscal estimate is correct ... please write the drafts intro. number below and give this fiscal estimate to Mike (or Landon) to process.

THIS DRAFT WAS INTRODUCED AS: 2001

- If this draft gets **introduced** ... and the version of the attached fiscal estimate is for a previous version ... please attach this early fiscal estimate to the back of the draft's file between the old version and the new version ... and get the ball rolling on getting a fiscal estimate prepared for the introduced version.

2001 Session		LRB Number -2617/1
FISCAL ESTIMATE DOA-2048 N(R06/99)		Bill Number
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL		
Subject Interference with the custody of a child and providing a penalty		Amendment No. if Applicable
		Administrative Rule Number
Fiscal Effect State: <input checked="" type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
Local: <input checked="" type="checkbox"/> No local government costs		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Chapter 20 Appropriations s. 20.475(1)(d)
Assumptions Used in Arriving at Fiscal Estimate <p>There is no information available to determine if the number of additional cases referred to district attorneys' office will significantly increase were this bill to become law.</p>		
Long-Range Fiscal Implications None		
Prepared by: DOA/Stuart Morse	Telephone No. (608) 267-2700	Agency District Attorneys
Authorized Signature: 	Telephone No. (608) 267-3836	Date March 5, 2000

Memo

Attached is a fiscal estimate prepared for a draft that has not yet been introduced.

LRB Number: LRB 01 - 2617

Version: "1"

Requested By: Underheim

Entered In Computer And Copy Sent To Requestor:

03 / ¹⁵ ~~07~~ / 01

Fiscal Estimate Prepared By: (agency abbr.) DOJ

Sent
again
05-15-2001

To: LRB - Legal Section PA's

Subject: Fiscal Estimate Received For A Un-Introduced Draft

- If this is **re-drafted** to a new version please attach this early fiscal estimate to the back of the draft's file between the old version and the new version.
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Fiscal Estimate — 2001 Session

- Original Updated
 Corrected Supplemental

LRB Number - 2617/1	Amendment Number if Applicable
Bill Number	Administrative Rule Number

Subject

Interference with the custody of a child and providing a penalty.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.
 Yes No
 Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill appears identical to 1999 AR 689

Local: This bill would require local law enforcement to enforce child custody placements and may result in families taking advantage of this law to file false accusations for retribution. Local law enforcement would have to verify with the courts whether the order was currently the one in effect. This may cause much background work by local law enforcement. According to one typical local law enforcement agency that the department contacted, it was estimated that an average case would require 6-8 hours of staff work. This enforcement requirement may result in agencies having to shift their priorities from other serious law enforcement issues to work on these cases. Overall this will affect the workload of individual law officers.

State: No fiscal effect.

Long-Range Fiscal Implications

Indeterminate

Prepared By: Mike Roberts	Telephone No. 266-7502	Agency Department of Justice
Authorized Signature <i>Joanna M. Richard</i>	Telephone No. 267-1932	Date (mm/dd/ccyy) 03/12/2001



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2617(1)
MGD&PJK:jld:pg

D-Note

2

2001 BILL

~~Repeal from hold~~

Soon

Regen

1 AN ACT to renumber and amend 948.31 (2) and 948.31 (3) (c); to amend 767.23
2 (1n), 767.51 (3) (b), 767.62 (4) (a) and 948.31 (1) (b); and to create 948.31 (1)
3 (am), 948.31 (2) (a), 948.31 (3m) (a) and 968.077 of the statutes; relating to:
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A person also violates the prohibition against interfering with custody by withholding a child from his or her legal custodian for more than 12 hours beyond a court-approved period of physical placement or visitation, if the person withholds the child without the custodian's consent and with the intent to deprive the custodian of his or her custody rights. A person who violates the prohibition against interfering with the custody of a child in this manner may be fined not more than \$10,000 or imprisoned for not more than 15 years or both. (either of these ways) ✓

This bill provides that a person violates the prohibition against interfering with the custody of a child if he or she withholds the child from his or her parents or from a single parent with legal custody for more than three hours or if he or she withholds

SIX ✓

violates this prohibition if he or she
withholds a child for more than 12 hours beyond the time authorized by a court in a temporary or final joint legal custody order.
The fact that a court has awarded the parents joint legal custody of the child does not preclude a court from finding that one parent has violated the prohibition in this way. Moreover, a parent for a person acting at a parent's direction

204

BILL

a child from his or her legal custodian for more than ~~three~~^{SIX} hours beyond a court-approved period of physical placement or visitation. A person who violates the prohibition against interfering with the custody of a child by withholding the child for more than ~~three~~ hours may be fined not more than \$10,000 or imprisoned for not more than nine months or both.

The bill also provides that, if a court has ordered that ~~both~~^{either one or} parents have legal custody ~~and periods of physical placement~~ of a child and one parent takes the child from or causes the child to leave the other parent in violation of the order or withholds the child for more than ~~three~~ hours beyond ~~the court-approved period of physical placement or visitation~~, the other parent may request a law enforcement agency in the jurisdiction in which the first parent is located to assist in locating and returning the child. A law enforcement agency must assist in locating and returning the child of a parent who makes a request for assistance if the parent provides the law enforcement agency with a certified copy of the court order ~~specifying joint legal custody rights and periods of physical placement~~^{being violated}.

Finally, under current law a summons in an action affecting the family, such as a divorce, in which the parties have a minor child must include notification of the statute that prohibits interference with the custody of a child. Also under current law, a final judgment in an action affecting the family in which custody of, or physical placement with, a minor child was determined must include notification of the statute that prohibits interference with the custody of a child. Under this bill, if a judge or family court commissioner in an action affecting the family grants legal custody of a minor child or periods of physical placement with a minor child temporarily during the pendency of the action, the temporary order must also include notification of the statute that prohibits interference with the custody of a child.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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- 1 **SECTION 1.** 767.23 (1n) of the statutes is amended to read:
- 2 767.23 (1n) Before making any temporary order under sub. (1), the court or
- 3 family court commissioner shall consider those factors that the court is required by
- 4 this chapter to consider before entering a final judgment on the same subject matter.
- 5 In making a determination under sub. (1) (a) or (am), the court or family court
- 6 commissioner shall consider the factors under s. 767.24 (5). If the court or family
- 7 court commissioner makes a temporary child support order that deviates from the

SIX

what is authorized by any such order

of any other regarding physical placement periods of

BILL

1 amount of support that would be required by using the percentage standard
2 established by the department under s. 49.22 (9), the court or family court
3 commissioner shall comply with the requirements of s. 767.25 (1n). A temporary
4 order under sub. (1) may be based upon the written stipulation of the parties, subject
5 to the approval of the court or the family court commissioner. Temporary orders
6 made by the family court commissioner may be reviewed by the court as provided in
7 s. 767.13 (6). A temporary order granting legal custody of a minor child or periods
8 of physical placement with a minor child shall include notification of the contents of
9 s. 948.31.

10 **SECTION 2.** 767.51 (3) (b) of the statutes is amended to read:

11 767.51 (3) (b) Orders for the legal custody of and periods of physical placement
12 with the child, determined in accordance with, and otherwise in compliance with, s.
13 767.24.

14 **SECTION 3.** 767.62 (4) (a) of the statutes is amended to read:

15 767.62 (4) (a) Orders for the legal custody of and periods of physical placement
16 with the child, determined in accordance with, and otherwise in compliance with, s.
17 767.24.

18 **SECTION 4.** 948.31 (1) (am) of the statutes is created to read:

19 948.31 (1) (am) Except as provided under chs. 48 and 938, whoever
20 intentionally causes a child to leave, takes a child away, or withholds a child for more
21 than ⁽⁶⁾3 hours beyond the court-approved period of physical placement or visitation
22 period from a legal custodian with intent to deprive the custodian of his or her
23 custody rights without the consent of the custodian is guilty of a Class A
24 misdemeanor. This paragraph is not applicable if the court has entered an order
25 authorizing the person to so take or withhold the child.

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1 **SECTION 5.** 948.31 (1) (b) of the statutes is amended to read:

2 948.31 (1) (b) Except as provided under chs. 48 and 938, whoever intentionally
3 causes a child to leave, takes a child away, or withholds a child for more than 12 hours
4 beyond the court-approved period of physical placement or visitation period from a
5 legal custodian with intent to deprive the custodian of his or her custody rights
6 without the consent of the custodian is guilty of a Class C felony. This paragraph is
7 not applicable if the court has entered an order authorizing the person to so take or
8 withhold the child.

9 (c) The fact that joint legal custody has been awarded to both parents by a court
10 does not preclude a court from finding that one parent has committed a violation of
11 ~~this paragraph~~ par. (am) or (b).

12 **SECTION 6.** 948.31 (2) of the statutes is renumbered 948.31 (2) (b) and amended
13 to read:

14 948.31 (2) (b) Whoever causes a child to leave, takes a child away, or withholds
15 a child for more than 12 hours from the child's parents or, in the case of a nonmarital
16 child whose parents do not subsequently intermarry under s. 767.60, from the child's
17 mother or, if he has been granted legal custody, the child's father, without the consent
18 of the parents, the mother, or the father with legal custody, is guilty of a Class E
19 felony. ~~This subsection~~ paragraph is not applicable if legal custody has been granted
20 by court order to the person taking or withholding the child.

21 **SECTION 7.** 948.31 (2) (a) of the statutes is created to read:

22 948.31 (2) (a) Whoever causes a child to leave, takes a child away, or withholds
23 a child for more than ⁶3 hours from the child's parents or, in the case of a nonmarital
24 child whose parents do not subsequently intermarry under s. 767.60, from the child's
25 mother or, if he has been granted legal custody, the child's father, without the consent

BILL

1 of the parents, the mother, or the father with legal custody, is guilty of a Class A
2 misdemeanor. This paragraph is not applicable if legal custody has been granted by
3 court order to the person taking or withholding the child.

4 **SECTION 8.** 948.31 (3) (c) of the statutes is renumbered 948.31 (3m) (b) and
5 amended to read:

6 948.31 (3m) (b) After Any parent, or any person acting pursuant to directions
7 from the parent, who, after issuance of a temporary or final order specifying joint
8 legal custody rights and periods of physical placement, takes a child from or causes
9 a child to leave the other parent in violation of the order or withholds a child for more
10 than 12 hours beyond the court-approved period of physical placement or visitation
11 period is guilty of a Class C felony.

12 **SECTION 9.** 948.31 (3m) (a) of the statutes is created to read:

13 948.31 (3m) (a) Any parent, or any person acting pursuant to directions from
14 the parent, who, after issuance of a temporary or final order specifying joint legal
15 custody rights and periods of physical placement, takes a child from or causes a child
16 to leave the other parent in violation of the order or withholds a child for more than

17 3 hours beyond the court-approved period of physical placement or visitation period ✓
18 is guilty of a Class A misdemeanor. *a court has entered an order granting one or both
parents the legal custody of a child and*

19 **SECTION 10.** 968.077 of the statutes is created to read:

20 **968.077 Interference with child custody or physical placement;**

21 **assistance to parent.** If a parent of ^{the} child alleges that his or her legal custody or
22 period of physical placement of the child is being interfered with by the ^{child's} other parent

23 ~~of the child~~ in violation of s. 948.31/(3m), ^{(1)(am) or (b), (2), or (3m) ✓} the parent may request a law enforcement

24 agency in the jurisdiction in which the other parent is present to assist in locating
25 and returning the child. A law enforcement agency shall assist in locating and

is this supposed to be either sole or joint?

BILL

1 returning the child of a parent who makes a request under this section if the parent
2 provides the law enforcement agency with a certified copy of the ~~temporary or final~~
3 order ~~specifying joint legal custody rights and periods of physical placement~~ that is
4 allegedly being violated by the other parent.

SECTION 11. Initial applicability.

5
6 (1) INTERFERENCE WITH CUSTODY. The treatment of section 948.31 (1) (am) and
7 (b), (3) (c), and (3m) (a) of the statutes, the renumbering and amendment of section
8 948.31 (2) of the statutes, and the creation of section 948.31 (2) (a) of the statutes first
9 apply to offenses committed on the effective date of this subsection.

10 (2) TEMPORARY ORDERS GRANTING LEGAL CUSTODY OR PHYSICAL PLACEMENT. The
11 treatment of section 767.23 (1n) of the statutes first applies to temporary orders
12 made on the effective date of this subsection.

13 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2617/2dn

MGD:λ.....

JLD

Dagny:

This bill permits parents who have custody of a child or with whom a child is placed pursuant to a court order to request help from the police if the other parent has violated s. 948.31 (1) (am) or (b), (2), or (3m). ✓ I understand that you do not want to require the police to respond in other types of cases; but the bill may be read as not even permitting parents who have custody of a child without a court order to request help from the police. Is that your intent?

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2617/2dn
MCD:jld:jf

May 4, 2001

Dagny:

This bill permits parents who have custody of a child or with whom a child is placed pursuant to a court order to request help from the police if the other parent has violated s. 948.31 (1) (am) or (b), (2), or (3m). I understand that you do not want to require the police to respond in other types of cases; but the bill may be read as not even permitting parents who have custody of a child without a court order to request help from the police. Is that your intent?

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