

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2703/1dn

PJK:jld:km

March 6, 2001

1. Under s. 948.31, a parent with joint legal custody of a child may be found guilty of a Class C felony if he or she, without the consent of the other parent, withholds the child from the other parent for more than 12 hours beyond a court-ordered period of physical placement. I assume that taking a child to a foreign country might result in keeping the child for more than 12 hours beyond the other parent's scheduled period of physical placement with the child. I don't know if a simple prohibition against taking a child to certain foreign countries without the agreement of the other parent, as created in s. 767.24 (8m), would have as much clout as the criminal statute under current law does. On the other hand, this bill might apply in situations that do not fall under the criminal statute. For example, a parent may have physical placement of a child for a month in the summer. Under the criminal statute, the child could be taken to a foreign country and brought back at the end of the month with no violation. In that same situation, however, this bill would require the agreement of the other parent if the country is a nonratifying or nonacceding one. I'm not sure, however, that a parent who would keep a child away from the other parent (in violation of a court order and the law) would feel obligated to comply with the law in securing the agreement of the other parent before taking the child away.

2. It seems sort of strange to require a parent with joint legal custody to secure the agreement of the other parent before taking the child to a nonratifying or nonacceding foreign country but not to require a parent with physical placement rights but no legal custody to secure such an agreement. You might also want to require a parent with sole custody to secure the agreement of the other parent if that parent has physical placement rights.

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