
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1779

Session of
1983

INTRODUCED BY BURNS, REINARD, J. L. WRIGHT, CLYMER AND
GALLAGHER, DECEMBER 6, 1983

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 6, 1983

AN ACT

1 Prohibiting the interference with child custody orders; imposing
2 duties on courts, district attorneys and prothonotaries; and
3 providing penalties.

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9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Uniform
13 Custodial Interference Act.

14 Section 2. Offenses defined.

15 Any parent, or any person acting pursuant to the directions
16 of the parent, commits a felony of the second degree if he:

17 (1) Intentionally conceals a child under the age of 17
18 from the child's other parent.

19 (2) Intentionally removes a child under the age of 17
20 from the Commonwealth prior to the issuance of an order
21 determining custody of the child, for the purpose of
22 concealing the child from the other parent, or to establish
23 residence in another jurisdiction with the intent to initiate
24 an action for custody of the child. The presence in another
25 jurisdiction and the filing of an action affecting the
26 custody of the child under the age of 17 shall create the
27 rebuttable presumption that the removal of the child from the
28 former residence of the child was for purposes prohibited by
29 this act.

30 (3) After being served with process in an action

1 affecting marriage or custody, but prior to the issuance of
2 temporary or final orders determining custody rights to a
3 child under the age of 17, takes, entices, withholds or
4 conceals the child, depriving the other parent of custody or
5 visitation with the child.

6 (4) After issuance of a temporary order specifying joint
7 custody, split or divided custody or shared parental
8 responsibility, takes, entices, withholds or conceals a child
9 under the age of 17 from the child's other parent in
10 violation of the custody or visitation order.

11 (5) After being granted visitation rights, neglects or
12 refuses to return the child 12 hours or more beyond the time
13 specified for the visitation.

14 Section 3. Prosecution.

15 A person who violates this act may be prosecuted under this
16 act for failure to return a child to his or her lawful custodian
17 or parent with visitation rights, residing in the Commonwealth,
18 even though the specific neglect or refusal occurred outside the
19 Commonwealth.

20 Section 4. Defenses.

21 No person violates this act if their action:

22 (1) Is taken to protect the child from imminent harm.

23 (2) Is taken by a parent fleeing from imminent physical
24 harm to himself or herself.

25 (3) Is consented to by the child's other parent.

26 (4) Is otherwise authorized by law or court order.

27 Section 5. Text of act to be included in petitions.

28 Each petition for dissolution of marriage or other action
29 affecting custody of the child under the age of 17 shall contain
30 a summary of the text of this act within the wording of the

1 summons.

2 Section 6. Assistant district attorney to be assigned.

3 The district attorney in each county shall assign one
4 assistant district attorney to prosecute violations under this
5 act and shall provide adequate training to that individual to
6 perform his duties hereunder.

7 Section 7. Duties of district attorney.

8 The district attorney shall, upon receipt of a complaint from
9 a parent affected by this act, within 72 hours therefrom, obtain
10 necessary warrants, conduct a preliminary investigation, and
11 contact law enforcement agencies including the Federal Bureau of
12 Investigation, or seek the assistance of other agencies or
13 qualified persons to effect the most timely recovery of a child
14 under the age of 17 missing under circumstances affected by this
15 act.

16 Section 8. Indigent parents.

17 In the event an indigent parent affected by this act is
18 without funds to recover a child under the age of 17 affected by
19 this act, the court shall direct that the county treasurer
20 provide funds for such travel, or shall appoint or direct that a
21 law enforcement officer of that jurisdiction secure the return
22 of the child to the parent at Commonwealth expense.

23 Section 9. Penalty for interference with visitation rights.

24 Any parent, or person acting pursuant to the directions of a
25 parent, or who are acting on their own behalf, who interferes
26 with the visitation rights of a parent, after such rights have
27 been granted by a court of competent jurisdiction, shall be
28 guilty of a felony of the third degree.

29 Section 10. Penalty to causing physical harm to a child.

30 In the event that a parent, or other person, while in the act

1 of violating the provisions of this act, causes physical harm to
2 a child affected by this act, that person shall be guilty of a
3 felony of the first degree.

4 Section 11. Penalty for bringing in child without legal right.

5 Any parent or other person who knowingly brings into the
6 Commonwealth any child not in his or her lawful custody or her
7 lawful custody or care, which child was a resident of another
8 state or foreign nation without the legal right to do so, is
9 guilty of a felony of the third degree.

10 Section 12. Reimbursement and punitive damages.

11 Any parent or other person who aids the parent in the
12 unlawful abduction or concealment of a child under the age of 17
13 from the parent with the right to custody or visitation, shall
14 be liable to such parent to reimburse the parent for any and all
15 expenses in locating and recovering the child, and for punitive
16 damages to deter future abductions by that parent and others
17 from giving aid for such purposes.

18 Section 13. Full faith and credit.

19 All courts of common pleas shall give full faith and credit
20 to custody and visitation orders of the courts of sister states
21 and foreign nations, pursuant to the Uniform Child Custody
22 Jurisdiction Act, The Federal Parental Kidnapping Prevention
23 Act, and the Hague convention, and shall not modify the order or
24 hinder in any manner the good faith attempts to enforce it
25 within this Commonwealth.

26 Section 14. Affidavit required relating to text of act.

27 Whenever an action is filed with a court of common pleas
28 affecting the custody of a child under the age of 17 (including
29 adoption and paternity), it shall be required that the attorney
30 or other person filing the action, certify in the form of sworn

1 affidavit from the petitioner, that the petitioner has been
2 furnished with a copy of the summary of the text of this act and
3 he or she understands its provision, and that the person filing
4 the action shall also certify in writing that the summons or
5 other documents being served on the respondent contains the
6 summary of the text of this act. Any attorney or other person
7 filing the petitions affecting the custody of a child under the
8 age of 17 who fails to comply with the provisions of this
9 section shall be held directly liable to any party injured as a
10 consequence of such failure and shall bear personally all
11 additional costs to the injured party including legal fees. The
12 Supreme Court Disciplinary Board shall notify every attorney
13 licensed to practice law within this Commonwealth of the
14 requirements of this section within 30 days following enactment
15 of this act, and shall maintain a continuing requirement that
16 all those subsequently admitted to the practice of law be
17 advised of the requirements of this act.

18 Section 15. Prothonotary not to accept certain petitions.

19 No prothonotary shall accept for filing any petition
20 affecting custody of a child under the age of 17 which does not
21 contain a summary of the text of this act.

22 Section 16. School records not to be transferred.

23 In the event of the abduction of a school-age child affected
24 by this act, the district attorney shall immediately restrain
25 the transfer of school records of a child affected by this act.

26 Section 17. Court orders to protect child.

27 The court in which an action affecting custody of a child
28 under the age of 17 is being considered, shall in its
29 deliberation and orders, enter such provisions as will protect
30 the child from a reoccurrence of the abduction in such cases, or

1 concealment, including transfer of custody or restrictions upon
2 visitation.

3 Section 18. Guardian ad litem to be appointed.

4 In cases of abduction of children under the age of 17
5 affected by this act, the court shall appoint an agency or
6 individual competent to so act, as the child's guardian ad
7 litem, to assist the parent from whom the child was taken to
8 recover the child, and to act as an advocate for the child's
9 interest at further proceedings. The persons so appointed shall
10 act as an agent of the court to courts in other jurisdictions to
11 clarify jurisdictional issues and the best interests of the
12 child under the age of 17. The courts of common pleas shall
13 recognize guardian ad litem appointees from the other
14 jurisdictions and afford them all deference in their function.
15 The court shall direct that one party, both parties, or the
16 Commonwealth shall reimburse the guardian ad litem for
17 reasonable fees and expenses.

18 Section 19. Foreign orders to be enforced.

19 The prothonotaries shall accept for filing and enforcement
20 certified or exemplified copies of orders, judgments, or decrees
21 of sister states. The prothonotary shall assign a docket number
22 and attach a document signed by the president judge of the court
23 of common pleas directing that the foreign order be enforced in
24 each and every provision. In no event shall any proceeding be
25 held to modify enforcement of the foreign order, or to delay the
26 immediate return of the physical possession of the child under
27 the age of 17 to the parent having lawful custody of the child
28 under the age of 17. The court may, if probable cause exists,
29 hold a hearing confined solely to the issue of the genuineness
30 of the order or judgment presented for enforcement.

1 Section 20. Notice not required in certain cases.

2 Application for filing and enforcement of a foreign custody
3 judgment, decree, or order shall not require notice to a parent
4 who has abducted a child under the age of 17 to the Commonwealth
5 from another state with provisions in substantial accord with
6 this act or the Uniform Child Custody Jurisdiction Act.

7 Section 21. Permission needed to remove child.

8 Whenever a court of the Commonwealth has granted visitation
9 to a parent, it shall order that the child's custodian obtain
10 written permission of the child's other parent having such
11 rights of visitation in writing, or permission of the court to
12 remove the child under the age of 17 from the jurisdiction of
13 the court to establish residence of the child within another
14 jurisdiction. The court may grant such permission after a
15 hearing with notice to the parent having the rights of
16 visitation by personal service, and an opportunity to be heard.
17 Granting permission to establish the child's residence in
18 another jurisdiction shall be determined by the best interest of
19 the child and not the convenience of the parent seeking such
20 permission. There shall be a rebuttable presumption that such
21 removals are generally not in the best interest of the child.

22 Section 22. Effective date.

23 This act shall take effect in 90 days.