

SUBJECT: Interference with child custody in violation of a temporary custody order

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Peña, Vaught, Escobar, Hodge, Mallory Caraway, Talton
0 nays
3 absent — Riddle, Moreno, Pierson

WITNESSES: For — Erik R. Marsh (*Registered, but did not testify*: Celeste Villarreal, Texas Criminal Defense Lawyers Association)
Against — None

BACKGROUND: It is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) to take, retain, or abduct for payment a child under 18 in violation of a child custody judgment or order.

DIGEST: HB 95 would specify that it would be an offense punishable as a state jail felony for a person knowingly to violate a temporary order for child custody involving a child under the age of 18 by:

- taking or retaining the child; or
- abducting the child for payment from either the person to whom the temporary order was issued or another caretaker authorized by the person with temporary custody.

HB 95 would take effect September 1, 2007, and would apply only to an offense committed on or after this date.

SUPPORTERS SAY: HB 95 would clear up confusion among law enforcement officials about whether or not they can enforce temporary orders for child custody. The intent of the law was to make it a criminal offense to violate any order for child custody, including a temporary order. Because temporary orders are not explicitly mentioned in the law, however, some law enforcement officials have chosen not enforce them. This has left many parents whose children were taken in violation of a temporary custody order without a

means to restore their children to their care. The inability to enforce a temporary court order undermines the ruling of judges and often costs families time with their children and unnecessary legal costs in their efforts to reassert custody. HB 95 would resolve the ambiguity in the law so that law enforcement could be confident about their ability to enforce temporary orders for child custody.

OPPONENTS
SAY:

No apparent opposition.