

BILL ANALYSIS

Senate Research Center

S.B. 1329
By: Ellis
Jurisprudence
5-2-97
As Filed

DIGEST

Currently, a parent who is entitled to visitation of a child and who is denied possession of or access to a child has few remedies. Although current law provides for criminal penalty for the offense of interference with child custody, prosecutors are often reluctant to prosecute custodial parents who deny non-custodial parents access to their children. This bill would amend Section 25.03, Penal Code, to impose a Class C misdemeanor against a person who interferes with child custody. Additionally, this bill would enable a peace officer to issue a citation immediately if a person interferes with the non-custodial parent's access to a child. Finally, this bill would provide for a penalty enhancement for an individual who has two prior convictions for interference with child custody.

PURPOSE

As proposed, S.B. 1329 imposes a Class C misdemeanor against a person who interferes with child custody; enables a peace officer to issue a citation immediately if a person interferes with a non-custodial parent's access to the child; and provides a penalty enhancement for an individual who has two prior convictions for interference with child custody.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 25.03, Penal Code, by amending Subsection (d), and by adding Subsections (e)-(g), to provide that except as provided by Subsection (e) or (f), an offense under this section is a Class C misdemeanor, rather than a state jail felony. Provides that an offense under Subsection (a)(2) is a state jail felony. Requires an offense, if it is shown on the trial of an offense under this section that the defendant has been convicted of an offense under this section on not less than two previous occasions, on conviction of the defendant, to be punished as a state jail felony. Authorizes a peace officer who is charging a person with committing an offense under Subsection (a)(1), instead of taking the person before a magistrate, to issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.