

BILL ANALYSIS

Senate Research Center
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S.B. 580
By: Harris
Jurisprudence
3/16/1999
As Filed

DIGEST

Currently, the Penal Code description of penalties for interference of child custody is unclear and provides an extremely severe, and rarely used penalty for a managing conservator who interferes with a possession order. This bill would clarify and update the language and violations relating to possessory or managing conservators, and reduce the penalty for violation of a possession order to a \$50 maximum misdemeanor, with misdemeanor enhancement only upon repeated violations.

PURPOSE

As proposed, S.B. 580 clarifies and updates language, penalties, and violations relating to possessory or managing conservators.

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 Sections 25.03(a) and (b), Penal Code, to provide that a person commits an offense if the person knows that taking a child under 18 years of age violates a court order that provides for the possession of or access to the child, rather than disposing of the child's custody. Provides that a person commits an offense by taking a child under 18 years of age without being appointed managing or possessory conservator (conservator), rather than awarded custody, of the child. Provides that a conservator, rather than a noncustodial parent, commits an offense by intending to interfere with the express terms of a judgment or order of a court that provides for the possession of or access to, rather than lawful custody of, a child younger than 18 years of age. Provides that a person commits an offense by knowingly encouraging a child to leave the care of one appointed as the child's conservator and who designates the child's primary residence. Deletes language describing a child's guardian. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Chapter 25, Penal Code, by adding Section 25.032, as follows:

Sec. 25.032. VIOLATION OF COURT ORDER REGARDING PARENT-CHILD RELATIONSHIP. Provides that a conservator with whom the child primarily resides commits an offense by interfering with a certain person's access to the child, and also commits an offense by knowing that such interference violates a court order relating to the possession of or access to the child. Provides that an offense under this section is a misdemeanor punishable by a maximum fine of \$50, except as provided by Subsection (c), which sets forth provisions requiring a violator to be punished for a Class C misdemeanor. Provides that Section 12.03(c), Penal Code, does not prohibit the use of a prior conviction under this section, for enhancement purposes.

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Emergency clause.