

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 120

By: Brown of the Senate

and

Larason of the House

COMMITTEE SUBSTITUTE

An Act relating to missing children; amending 21 O.S. 1991, Section 891, 22 O.S. 1991, Section 126, 43 O.S. 1991, Section 527, 63 O.S. 1991, Section 1-323.1, and 74 O.S. 1991, Section 150.12A, which relate to child stealing, jurisdiction, violation of custody orders, notification for identifying missing children and reports of missing children; expanding age for child stealing; modifying language; modifying reports of missing child; directing the Oklahoma State Bureau of Investigation to promulgate certain rules and procedures; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 891, is amended to read as follows:

Section 891. Any person who maliciously, forcibly or fraudulently takes or entices away any child under the age of ~~twelve~~ eighteen (18) years, with intent to detain and conceal such child from its parent, guardian or other person having the lawful charge of such child is punishable by imprisonment in the penitentiary not exceeding ten (10) years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 126, is amended to read as follows:

Section 126. The jurisdiction of an indictment or information:

1. For forcibly and without lawful authority seizing and confining another, or inveigling or kidnapping him, with intent, against his will, to cause him to be secretly confined or imprisoned in this state, or to be sent out of the state, or from one county to another; or

2. For decoying or taking or enticing away a child under the age of ~~twelve (12)~~ eighteen (18) years, with intent to detain and conceal it from its parents, guardian, or other person having lawful charge of the child; or

3. For the inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of twenty-one (21) years for the purpose of prostitution; or

4. For taking away any ~~female child~~ child under the age of ~~sixteen (16)~~ eighteen (18) years from his or her father, mother, guardian or other person having the legal charge of his or her person without their consent either for the purpose of concubinage or prostitution,

is in any county in which the offense is committed or into or out of which the person upon whom the offense was committed, may, in the commission of the offense, have been brought or in which an act was done by the defendant in instigating, procuring, promoting, aiding or in being an accessory to the commission of the offense, or in abetting the parties concerned therein.

SECTION 3. AMENDATORY 43 O.S. 1991, Section 527, is amended to read as follows:

Section 527. A. Any parent or other person who violates an order of any court of this state, granting the custody of the child under the age of eighteen (18) years, to any person, agency or institution, with the intent to deprive the lawful custodian of the custody of a child under the age of eighteen (18) years, shall be guilty of a felony.

B. It shall be an affirmative defense either:

1. That the offender reasonably believes that the act was necessary to preserve the child from danger to his welfare; or

2. That the child, being at the time more than fourteen (14) years old, was taken away at his own instigation without

enticement and without purpose to commit a criminal offense with or against the child.

Provided, however, that such defenses shall not apply if the offender committed said act within thirty (30) days of an order of the district court relating to custody of the minor.

C. For purposes of this section and Section 891 of Title 21 of the Oklahoma Statutes, a child may be reported to a law enforcement official as a missing child. The Oklahoma State Bureau of Investigation upon receiving notification from a law enforcement official of the missing child shall immediately notify the State Commissioner of Health pursuant to Section 150.12A of Title 74 of the Oklahoma Statutes, who shall transmit information concerning requests for the birth certificate of the missing child as provided in Section 1-323.1 of Title 63 of the Oklahoma Statutes until the child is returned to the lawful custodial person.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-323.1, is amended to read as follows:

Section 1-323.1 A. The State Commissioner of Health shall establish a system for receiving notification from the Oklahoma State Bureau of Investigation that a person born in the State of Oklahoma and under eighteen (18) years of age has been reported missing, for identifying the birth certificate of such person, and for immediately notifying the Oklahoma State Bureau of Investigation whenever a request for a copy of the birth certificate of such person is made. The notification to the Oklahoma State Bureau of Investigation required by this section shall include but not be limited to the name and address of the person requesting a copy of the birth certificate and the name and address of the person to whom the copy is to be mailed if that person is someone other than the requester.

B. The State Commissioner of Health and the Director of the Oklahoma State Bureau of Investigation shall jointly establish the procedures and forms necessary for the transmittal of information between the State Department of Health and the Oklahoma State Bureau of Investigation required pursuant to the provisions of

this act. The Bureau shall establish rules and procedures for communicating information to a lawful custodial person about a child found in the custody of a person not the lawful custodial person pursuant to Section 527 of Title 43 of the Oklahoma Statutes and Section 150.12A of Title 74 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 150.12A, is amended to read as follows:

Section 150.12A A. It shall be the duty of any sheriff, chief of police, city marshal, constable, or any other law enforcement officer, within twenty-four (24) hours upon receipt of any report of a missing person to send one copy of such report to the Oklahoma State Bureau of Investigation and enter such information, when applicable, to the National Crime Information Center. Within seventy-two (72) hours of location or discovery of the missing person the sheriff, chief of police, city marshal, constable, or any other law enforcement officer shall notify the Oklahoma State Bureau of Investigation and remove the entry from the National Crime Information Center.

B. The Oklahoma State Bureau of Investigation shall provide forms for missing person information to each law enforcement officer provided for in subsection A of this section. Such forms shall be compatible with the data collection entry procedures of the National Crime Information Center. The Oklahoma State Bureau of Investigation shall establish guidelines for law enforcement officers concerning the collection and dissemination of information concerning missing persons.

C. Whenever a missing person report regarding a person born in the State of Oklahoma and under eighteen (18) years of age is received by the Oklahoma State Bureau of Investigation, the Bureau shall immediately notify the State Commissioner of Health that said person has been reported to be missing. The Director of the Oklahoma State Bureau of Investigation and the State Commissioner of Health shall jointly establish the procedures and forms necessary for the transmittal of information between the Oklahoma State Bureau of Investigation and the State Department of Health required pursuant to the provisions of ~~this act~~ Section 1-323.1 of

Title 63 of the Oklahoma Statutes. The Bureau shall establish rules and procedures for communicating information to a lawful custodial person about a child found in the custody of a person not the lawful custodial person. The rules shall provide that whenever a child is found in the custody of any person not the lawful custodial person, transmittal of information concerning requests for birth certificates shall continue until the child is returned to the lawful custodial person.

SECTION 6. This act shall become effective September 1, 1993.

44-1-6813

KSM