

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1960

By: Case

AS INTRODUCED

An Act relating to marriage and family; amending 43 O.S. 1991, Section 527, as amended by Section 2, Chapter 132, O.S.L. 1994 (43 O.S. Supp. 1996, Section 527), which relates to child kidnapping; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 527, as amended by Section 2, Chapter 132, O.S.L. 1994 (43 O.S. Supp. 1996, 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, upon conviction thereof, shall be guilty of a felony ~~punishable~~ and may be punished by imprisonment in the State Penitentiary for a period of not more than five (5) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00) or by both such fine and imprisonment.

B. It shall be an affirmative defense either:

1. That the offender reasonably believes that the act was necessary to preserve the child from physical, mental or emotional 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 and that the offender had a reasonable belief that if not taken, the child would run away to a location unknown to either the custodial or noncustodial parent or would otherwise cause serious harm to himself. 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 or unless the offender, within seventy-two (72) hours of the taking of the child:

- a. notifies the Department of Human Services of such removal and of the location of the child, and
- b. files an action for modification of the custody order with the court having proper jurisdiction of the case.

Upon receipt of such notification, the Department of Human Services shall immediately notify the local law enforcement agency nearest to the current location of the child of the taking and where the child is located.

C. If a child is removed from the custody of his lawful custodian, pursuant to the provisions of this section, any law enforcement officer may take such child into custody without a court order, and unless there is a specific court order directing a peace officer to take the child into custody and release or return the child to his lawful custodian, such child shall be held in protective custody until the right of custody is determined by the court having proper jurisdiction of the matter.

SECTION 2. This act shall become effective November 1, 1997.

46-1-5692

KSM