

By: Smith of the Senate  
and  
Askins of the House

An Act relating to child custody; making certain violation of child custody order a felony and providing penalty; providing affirmative defense with certain conditions; authorizing law enforcement officer to take child into custody under certain circumstances; requiring certain child to be held in protective custody until custody is determined; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 567A of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Any parent or other person who violates an order of any court of this state granting the custody of a 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 the child, shall be guilty of a felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

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 the child's welfare; and

2. The offender notifies the local law enforcement agency nearest to the location where the custodian of the child resides.

3. If a child is removed from the custody of the child's lawful custodian pursuant to the provisions of this section any law enforcement officer may take the 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 a lawful custodian, the 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. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 9th day of February, 1999.

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President of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_ ,  
1999.

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Speaker of the House of  
Representatives