

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2662
By: Hochberg et al. (Hinojosa)
Criminal Justice
5/19/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In Texas, it is against the law for a parent to take or retain a child against the terms of a court order on custody, or while a court order on custody has been filed. However, if a parent is still married without any custody order in place or in process, that parent can abduct the child without violating any Texas law, leaving the other parent with no recourse in looking for his or her child.

C.S.H.B. 2662 proposes to authorize law enforcement to look for a child via the missing persons clearinghouse if a parent has taken or retained his or her child, depriving the other parent of his or her custodial rights without the permission of that other parent. The bill also includes an exception for children taken or retained due to domestic violence.

C.S.H.B. 2662 amends current law relating to the criteria for determining whether a child is a missing child.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 63.001(3), Code of Criminal Procedure, as follows:

(3) Provides that "missing child" means a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that:

(A) Makes no changes to this paragraph;

(B) the child voluntarily left the care and control of the, rather than his legal, custodian, without the custodian's consent and without intent to return;

(C) Makes a nonsubstantive change to this paragraph; or

(D) the child was taken or retained without the permission of the custodian and with the effect of depriving the custodian of possession of or access to the child unless the taking or retention of the child was prompted by the commission or attempted commission of family violence, as defined by Section 71.004 (Family Violence), Family Code, against the child or the actor.

SECTION 2. Makes application of the change in law made by this Act in amending Article 63.001(3), Code of Criminal Procedure, prospective.

SECTION 3. Effective date: September 1, 2011.