

BILL ANALYSIS

Senate Research Center
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H.B. 1206
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Absent court-ordered custodial rights there is nothing in law that prohibits one spouse from abducting the individual's child from the other spouse, and stakeholders assert that it is a more common practice than one would expect.

Last session, H.B. 2367 created the Texas Parental Rights Advisory Panel and charged the panel with conducting a thorough review of this topic and recommending to the legislature what changes, if any, were necessary to further protect children abducted by a parent.

H.B. 1206 requires law enforcement to actively investigate the location of a child who, for a period of at least 48 hours, has been taken from a parent and with the purpose of depriving that parent of access to the child. Upon finding the child, H.B. 1206 further requires law enforcement to assess the well-being of the child and to follow standard protocol in involving child protective services in the case if the child is suspected to be the victim of abuse or neglect as defined in the Family Code.

Specifically, this bill does not criminalize the act of a parent taking a child from the parent's spouse; makes an exception to the bill's provisions for any parent who abducts their child in order to flee from an abusive situation; requires law enforcement to make every effort to locate a child missing under these circumstances and to determine the child's well-being; and gives law enforcement the discretion to determine whether it is appropriate to disclose to the parent who filed the missing child report the location of the child once that is determined.

H.B. 1206 amends current law relating to the duties of a law enforcement agency regarding certain children who are reported to be missing.

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 63.009, Code of Criminal Procedure, by adding Subsections (a-1) and (a-2), as follows:

(a-1) Requires a local law enforcement agency (agency), on receiving a report of a child missing under the circumstances described by Article 63.001(3)(D) (relating to defining "missing child" to mean a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence includes a child 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) for a period of not less than 48 hours, to immediately make a reasonable effort to locate the child and determine the well-being of the child. Provides that on determining the location of the child, if the agency has reason to believe that the child is a victim of abuse or neglect as defined by Section 261.001 (Definitions), Family Code, the agency is required to notify the Department of Family and Protective Services (DFPS), and is authorized to take possession of the child under Subchapter B

(Taking Possession of Child), Chapter 262 (Procedures in Suit by Governmental Entity to Protect Health and Safety of Child), Family Code.

(a-2) Authorizes DFPS, on receiving notice under Subsection (a-1), to initiate an investigation into the allegation of abuse or neglect under Section 261.301 (Investigation of Report), Family Code, and take possession of the child under Chapter 262, Family Code.

SECTION 2. Makes application of the change in law made by this Act prospective.

SECTION 3. Effective date: September 1, 2013.