

SENATE BILL No. 182

By Committee on Judiciary

1-25

9 AN ACT relating to crimes and punishment; concerning interference
10 with parental custody; amending K.S.A. 21-3422 and K.S.A. 2006
11 Supp. 21-3422a and repealing the existing sections.
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 21-3422 is hereby amended to read as follows: 21-
15 3422. (a) Interference with parental custody is leading, taking, carrying
16 away, decoying or enticing away any child under the age of 16 years with
17 the intent to detain or conceal such child from its parent, guardian, or
18 other person having the lawful charge of such child.

19 (b) *No arrest shall be made under this section of a parent, as defined*
20 *by K.S.A. 38-1113, and amendments thereto, who detains, conceals or*
21 *removes a child on a good faith and reasonable belief that such action was*
22 *necessary to protect the child or the parent from being subjected to or*
23 *threatened with mistreatment or abuse and who, as soon as circumstances*
24 *allowed, reported the removal to the district or county attorney in the*
25 *county in which the child resided before the removal. Such report shall*
26 *include the parent's name, current address and telephone number and the*
27 *specific reasons why the action was believed to be reasonable and in good*
28 *faith. The address and identity of the parent filing the report shall remain*
29 *confidential unless released pursuant to an action filed under K.S.A. 38-*
30 *1336 et seq., and amendments thereto.*

31 ~~(b)~~ (c) It is not a defense to a prosecution under this section that the
32 defendant is a parent entitled to joint custody of the child either on the
33 basis of a court order ~~or by virtue of the absence of a court order~~, *except*
34 *if the defendant is a parent who in good faith reasonably believed that*
35 *the action was necessary to protect the defendant or the minor child or*
36 *both from being subjected to or threatened with mistreatment or abuse.*

37 ~~(c)~~ (d) (1) Interference with parental custody is a class A person mis-
38 demeanor if the perpetrator is a parent entitled to joint custody of the
39 child either on the basis of a court order ~~or by virtue of the absence of a~~
40 ~~court order~~.

41 (2) Interference with parental custody is a severity level 10, person
42 felony in all other cases.

43 Sec. 2. K.S.A. 2006 Supp. 21-3422a is hereby amended to read as

- 1 follows: 21-3422a. (a) Aggravated interference with parental custody is:
- 2 (1) Hiring someone to commit the crime of interference with paren-
- 3 tal custody, as defined by K.S.A. 21-3422 and amendments thereto; or
- 4 (2) the commission of interference with parental custody, as defined
- 5 by K.S.A. 21-3422 and amendments thereto, by a person who:
- 6 (A) Has previously been convicted of the crime;
- 7 (B) commits the crime for hire;
- 8 (C) takes the child outside the state without the consent of either the
- 9 person having custody or the court;
- 10 (D) after lawfully taking the child outside the state while exercising
- 11 visitation rights or parenting time, refuses to return the child at the ex-
- 12 piration of that time;
- 13 (E) at the expiration of the exercise of any visitation rights or par-
- 14 enting time outside the state, refuses to return or impedes the return of
- 15 the child; or
- 16 (F) detains or conceals the child in an unknown place, whether inside
- 17 or outside the state.
- 18 (b) *No arrest shall be made under this section of a parent, as defined*
- 19 *by K.S.A. 38-1113, and amendments thereto, who detains, conceals or*
- 20 *removes a child on a good faith and reasonable belief that such action was*
- 21 *necessary to protect the child or the parent from being subjected to or*
- 22 *threatened with mistreatment or abuse and who, as soon as circumstances*
- 23 *allowed, reported the removal to the district or county attorney in the*
- 24 *county in which the child resided before the removal. Such report shall*
- 25 *include the parent's name, current address and telephone number and the*
- 26 *specific reasons why the action was believed to be reasonable and in good*
- 27 *faith. The address and identity of the person filing the report shall remain*
- 28 *confidential unless released pursuant to an action filed under K.S.A. 38-*
- 29 *1336 et seq., and amendments thereto.*
- 30 ~~(b)~~ (c) Aggravated interference with parental custody is a severity
- 31 level 7, person felony.
- 32 (d) *It shall be an affirmative defense to a prosecution under this sec-*
- 33 *tion that the defendant is a parent who in good faith reasonably believed*
- 34 *that the action was necessary to protect the defendant or the minor child*
- 35 *or both from being subjected to or threatened with mistreatment or abuse.*
- 36 ~~(c)~~ (e) This section shall be a part of and supplemental to the Kansas
- 37 criminal code.
- 38 Sec. 3. K.S.A. 21-3422 and K.S.A. 2006 Supp. 21-3422a are hereby
- 39 repealed.
- 40 Sec. 4. This act shall take effect and be in force from and after its
- 41 publication in the statute book.