
By: Delegate Kach

Introduced and read first time: February 23, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Interference with Visitation Rights**

3 FOR the purpose of making it unlawful for a parent or legal guardian of a child to take
4 or retain the child with the intent to detain or conceal the child from any other
5 parent, grandparent, or guardian of the child who has court-ordered visitation
6 rights; establishing an affirmative defense to this Act; establishing certain penalties;
7 specifying that an individual who violates this Act may be ordered to pay to the
8 other parent, grandparent, or guardian certain costs; requiring an equity court to
9 order certain make-up visitation; authorizing an equity court to modify a custody or
10 visitation order under certain circumstances; and generally relating to enforcement
11 of court-ordered visitation rights.

12 BY adding to

13 Article - Family Law
14 Section 9-3A-01 through 9-3A-06, inclusive, to be under the new subtitle "Subtitle
15 3A. Interference with Visitation Rights"
16 Annotated Code of Maryland
17 (1991 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Family Law**

21 **SUBTITLE 3A. INTERFERENCE WITH VISITATION RIGHTS.**

22 9-3A-01.

23 A PARENT OR LEGAL GUARDIAN OF A CHILD MAY NOT TAKE OR RETAIN THE
24 CHILD WITH THE INTENT TO DETAIN OR CONCEAL THE CHILD FROM ANY OTHER
25 PARENT, GRANDPARENT, OR GUARDIAN OF THE CHILD WHO HAS VISITATION
26 RIGHTS UNDER A LAWFUL COURT ORDER IN EFFECT AT THE TIME OF THE TAKING
27 OR RETENTION.

28 9-3A-02.

29 IT IS AN AFFIRMATIVE DEFENSE TO AN ALLEGED VIOLATION OF § 9-3A-01 OF
30 THIS SUBTITLE THAT:

2

1 (1) THE PARENT COMMITTED THE ACT TO PROTECT THE CHILD FROM
2 IMMINENT PHYSICAL HARM AND:

3 (I) WITH THE BELIEF THAT PHYSICAL HARM WAS IMMINENT WAS
4 REASONABLE; AND

5 (II) THAT THE CONDUCT OF WITHHOLDING VISITATION RIGHTS
6 WAS A REASONABLE RESPONSE TO THE IMMINENT HARM; OR

7 (2) THE ALLEGED VIOLATION WAS COMMITTED WITH THE MUTUAL
8 CONSENT OF ALL PARTIES HAVING A RIGHT TO CUSTODY AND VISITATION OF THE
9 CHILD.

10 9-3A-03.

11 %AN INDIVIDUAL WHO VIOLATES THE PROVISIONS OF § 9-3A-01 OF THIS
12 SUBTITLE IS IN CONTEMPT OF COURT AND THE COURT MAY PUNISH THE
13 INDIVIDUAL FOR THE CONTEMPT.

14 9-3A-04.

15 IN ADDITION TO ANY OTHER PENALTY, AN INDIVIDUAL WHO VIOLATES THE
16 PROVISIONS OF § 9-3A-01 OF THIS SUBTITLE MAY BE ORDERED TO PAY:

17 (1) COURT COSTS;

18 (2) ATTORNEY'S FEES INCURRED BY THE OTHER PARENT,
19 GRANDPARENT, OR GUARDIAN ASSERTING VISITATION RIGHTS TO ENFORCE A
20 COURT ORDER; AND

21 (3) OTHER REASONABLE EXPENSES INCURRED BY THE OTHER PARENT,
22 GRANDPARENT, OR GUARDIAN INCURRED IN LOCATING THE CHILD AND HAVING
23 THE CHILD RETURNED.

24 9-3A-05.

25 IF AN INDIVIDUAL VIOLATES THE PROVISIONS OF § 9-3A-01 OF THIS SUBTITLE,
26 THE COURT SHALL ORDER THAT MAKE-UP VISITATION BE PROVIDED TO THE
27 OTHER PARENT, GRANDPARENT, OR GUARDIAN IN A MANNER DESIGNED TO
28 RESTORE THE VISITATION DENIED OR INTERFERED WITH.

29 9-3A-06.

30 (A) IF A COURT FINDS A VIOLATION OF § 9-3A-01 OF THIS SUBTITLE, THE
31 PARENT, GRANDPARENT, OR GUARDIAN WHOSE VISITATION RIGHTS HAVE BEEN
32 DENIED OR INTERFERED WITH MAY FILE A PETITION IN EQUITY COURT STATING
33 THAT THE VIOLATION IS A CHANGE OF CIRCUMSTANCES AND MAY SEEK TO REVISE,
34 AMEND, OR CLARIFY THE CUSTODY OR VISITATION ORDER.

35 (B) IF A PETITION IS FILED UNDER SUBSECTION (A) OF THIS SECTION, THE
36 COURT MAY MODIFY THE CUSTODY OR VISITATION ORDER TO REQUIRE
37 ADDITIONAL TERMS AND CONDITIONS DESIGNED TO ENSURE FUTURE COMPLIANCE
38 WITH THE ORDER.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.