
By: **Delegate O'Donnell**
Introduced and read first time: February 13, 2004
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 27, 2004

CHAPTER _____

1 AN ACT concerning

2 **Child Custody and Visitation - Child Abduction**

3 FOR the purpose of prohibiting certain ~~individuals~~ persons who ~~have knowledge~~
4 know that another ~~individual~~ person has certain lawful visitation rights from
5 harboring or hiding a child ~~in a place~~ within the State or outside the State or
6 acting as an accessory to a prohibited act under certain circumstances;
7 establishing a certain defense; applying certain penalties; defining a certain
8 term; making stylistic changes; and generally relating to ~~child abduction by a~~
9 certain individual harboring or hiding a child from another individual a person
10 who has certain lawful visitation rights.

11 BY repealing and reenacting, with amendments,
12 Article - Family Law
13 Section 9-301 and 9-304 through 9-307
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Family Law
18 Section 9-302 and 9-303
19 Annotated Code of Maryland
20 (1999 Replacement Volume and 2003 Supplement)

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

1 **Article - Family Law**

2 9-301.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) (1) "Lawful custodian" means a person who is authorized to have custody
5 of and exercise control over a child who is under the age of 16 years.6 (2) "Lawful custodian" includes a person who is authorized to have
7 custody by an order of a court of competent jurisdiction in this State or any other
8 state.9 (c) "LAWFUL VISITATION RIGHTS" MEANS THE RIGHT TO HAVE VISITATION
10 WITH A CHILD BY AN ORDER OF A COURT OF COMPETENT JURISDICTION IN THE
11 STATE OR ANY OTHER STATE.

12 (D) "Relative" means:

13 (1) a parent;

14 (2) a grandparent or other ancestor;

15 (3) a brother;

16 (4) a sister;

17 (5) an aunt;

18 (6) an uncle; or

19 (7) ~~an individual~~ A PERSON who was a lawful custodian before the
20 commission of an act that violates § 9-304 or § 9-305 of this subtitle.

21 9-302.

22 (a) An equity court has jurisdiction over custody and visitation of a child who
23 is removed from this State by a parent of the child, if:

24 (1) the parents are separated or divorced and this State was:

25 (i) the marital domicile of the parents; or

26 (ii) the domicile in which the marriage contract was last performed;

27 (2) 1 of the parents was a resident of this State when the child was
28 removed and that parent continues to reside in this State; and29 (3) the court obtains personal jurisdiction over the parent who removes
30 the child.

1 (b) This section does not affect any other basis of an equity court's jurisdiction
2 over custody and visitation of a child.

3 9-303.

4 (a) This section applies if there is a conflict between a custody order of a court
5 of this State and a custody order of a court of another state.

6 (b) Except as provided in subsection (c) of this section, a custody order of a
7 court of this State prevails over a custody order of a court of another state.

8 (c) A custody order of a court of another state prevails over a custody order of
9 a court of this State if the court in the other state passed its custody order:

10 (1) after the custody order was passed by a court of this State; and

11 (2) in proceedings in which the lawful custodian under the custody order
12 of a court of this State:

13 (i) consented to the custody order passed by the court of the other
14 state; or

15 (ii) participated personally as a party.

16 9-304.

17 (A) If a child is under the age of 16 years, a relative who knows that another
18 ~~person~~ ~~INDIVIDUAL~~ is the lawful custodian of the child may not:

19 (1) abduct, take, or carry away the child from the lawful custodian to a
20 place within this State;

21 (2) having acquired lawful possession of the child, detain the child
22 within this State for more than 48 hours after the lawful custodian demands that the
23 child be returned;

24 (3) harbor or hide the child within this State, knowing that possession of
25 the child was obtained by another relative in violation of this section; or

26 (4) act as an accessory to an act prohibited by this section.

27 (B) IF A CHILD IS UNDER THE AGE OF 16 YEARS, A RELATIVE WHO KNOWS
28 THAT ANOTHER ~~INDIVIDUAL~~ PERSON HAS LAWFUL VISITATION RIGHTS WITH THE
29 CHILD MAY NOT:

30 (1) HARBOR OR HIDE THE CHILD WITHIN THE STATE WITH THE INTENT
31 OF KEEPING THE WHEREABOUTS OF THE CHILD UNKNOWN TO AN ~~INDIVIDUAL~~ THE
32 PERSON WITH LAWFUL VISITATION RIGHTS AND DEPRIVING THE PERSON OF
33 EXERCISING THE PERSON'S LAWFUL VISITATION RIGHTS; OR

34 (2) ACT AS AN ACCESSORY TO AN ACT PROHIBITED BY THIS SECTION.

1 9-305.

2 (a) If a child is under the age of 16 years, a relative who knows that another
3 {person} ~~INDIVIDUAL~~ is the lawful custodian of the child may not:

4 (1) abduct, take, or carry away the child from the lawful custodian to a
5 place in another state;

6 (2) having acquired lawful possession of the child, detain the child in
7 another state for more than 48 hours after the lawful custodian demands that the
8 child be returned;

9 (3) harbor or hide the child in another state knowing that possession of
10 the child was obtained by another relative in violation of this section; or

11 (4) act as an accessory to an act prohibited by this section.

12 (b) If a child is under the age of 16 years, a relative who knows that another
13 {person} ~~INDIVIDUAL~~ is the lawful custodian of the child may not:

14 (1) abduct, take, or carry away the child from the lawful custodian to a
15 place that is outside of the United States or a territory of the United States or the
16 District of Columbia or the Commonwealth of Puerto Rico;

17 (2) having acquired lawful possession of the child, detain the child in a
18 place that is outside of the United States or a territory of the United States or the
19 District of Columbia or the Commonwealth of Puerto Rico for more than 48 hours
20 after the lawful custodian demands that the child be returned;

21 (3) harbor or hide the child in a place that is outside of the United States
22 or a territory of the United States or the District of Columbia or the Commonwealth
23 of Puerto Rico knowing that possession of the child was obtained by another relative
24 in violation of this section; or

25 (4) act as an accessory to an act prohibited by this section.

26 (C) IF A CHILD IS UNDER THE AGE OF 16 YEARS, A RELATIVE WHO KNOWS
27 THAT ANOTHER ~~INDIVIDUAL~~ PERSON HAS LAWFUL VISITATION RIGHTS WITH THE
28 CHILD MAY NOT:

29 (1) HARBOR OR HIDE THE CHILD OUTSIDE THE STATE WITH THE INTENT
30 OF KEEPING THE WHEREABOUTS OF THE CHILD UNKNOWN TO AN INDIVIDUAL THE
31 PERSON WITH LAWFUL VISITATION RIGHTS AND DEPRIVING THE PERSON OF
32 EXERCISING THE PERSON'S LAWFUL VISITATION RIGHTS; OR

33 (2) ACT AS AN ACCESSORY TO AN ACT PROHIBITED BY THIS SECTION.

34 9-306.

35 (a) If ~~an individual~~ A PERSON violates the provisions of § 9-304 or § 9-305 of
36 this subtitle, the ~~individual~~ PERSON may file in an equity court a petition that:

1 (1) states that, at the time the act was done, a failure to do the act would
2 have resulted in a clear and present danger to the health, safety, or welfare of the
3 child; and

4 (2) seeks to revise, amend, or clarify the custody OR VISITATION order.

5 (b) (1) If a petition is filed as provided in subsection (a) of this section within
6 96 hours of the act, a finding by the court that, at the time the act was done, a failure
7 to do the act would have resulted in a clear and present danger to the health, safety,
8 or welfare of the child is a complete defense to any action brought for a violation of §
9 9-304 or § 9-305 of this subtitle.

10 (2) IT IS A COMPLETE DEFENSE TO ANY ACTION BROUGHT FOR A
11 VIOLATION OF § 9-304(B) OR § 9-305(C) OF THIS SUBTITLE THAT A NOTIFICATION
12 DIVULGING THE WHEREABOUTS OF THE CHILD WAS MADE TO THE ~~INDIVIDUAL~~
13 PERSON WITH LAWFUL VISITATION RIGHTS WITHIN 30 DAYS OF THE ACT
14 CONSTITUTING THE VIOLATION.

15 9-307.

16 (a) A person who violates any provision of § 9-304 of this subtitle is guilty of a
17 misdemeanor and on conviction is subject to a fine not exceeding \$250 or
18 imprisonment not exceeding 30 days.

19 (b) If the child is out of the custody of the lawful custodian for not more than
20 30 days OR IF THE WHEREABOUTS OF THE CHILD ARE UNKNOWN TO THE
21 ~~INDIVIDUAL~~ PERSON WITH LAWFUL VISITATION RIGHTS FOR NOT MORE THAN 30
22 DAYS, a person who violates any provision of § 9-305(a) OR (C) of this subtitle is guilty
23 of a felony and on conviction is subject to a fine not exceeding \$250 or imprisonment
24 not exceeding 30 days, or both.

25 (c) If the child is out of the custody of the lawful custodian for more than 30
26 days OR IF THE WHEREABOUTS OF THE CHILD ARE UNKNOWN TO THE ~~INDIVIDUAL~~
27 PERSON WITH LAWFUL VISITATION RIGHTS FOR MORE THAN 30 DAYS, a person who
28 violates any provision of § 9-305(a) OR (C) of this subtitle is guilty of a felony and on
29 conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1
30 year, or both.

31 (d) A person who violates any provision of § 9-305(b) of this subtitle is guilty of
32 a felony and on conviction is subject to a fine not exceeding \$5,000 or imprisonment
33 not exceeding 3 years or both.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2004.

