

HOUSE BILL 675

E1

8lr0771

By: **Delegates King, Bromwell, Costa, Kach, Kipke, Krebs, Kullen, Love, Manno, McHale, Miller, Minnick, Ross, Schuler, Sophocleus, Tarrant, and Walker**

Introduced and read first time: February 1, 2008

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2008

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Child Abduction by Noncustodial Relative – ~~Affirmative~~**
3 **~~Defenses and Penalties~~**

4 FOR the purpose of ~~creating certain affirmative defenses to certain prosecutions~~
5 ~~relating to the abduction of a child under a certain age from a certain custodian~~
6 ~~by a certain relative to a place within the State, in another state, or outside of~~
7 ~~the United States or harboring or detaining the child under certain~~
8 ~~circumstances within the State, in another state, or outside of the United~~
9 ~~States; altering certain criminal penalties~~ altering the elements of certain
10 crimes involving the abducting, detaining, or harboring of a certain child by a
11 relative to require a certain intent; altering certain penalties for certain crimes
12 involving the abducting, detaining, or harboring of a certain child by a relative
13 under certain circumstances; and generally relating to child abduction.

14 BY repealing and reenacting, ~~without~~ with amendments,
15 Article – Family Law
16 Section 9–304 ~~and~~, 9–305, and 9–307
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2007 Supplement)

19 ~~BY adding to~~
20 ~~Article – Family Law~~
21 ~~Section 9–306.1~~
22 ~~Annotated Code of Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~(2006 Replacement Volume and 2007 Supplement)~~

2 ~~BY repealing and reenacting, with amendments,~~

3 ~~Article – Family Law~~

4 ~~Section 9-307~~

5 ~~Annotated Code of Maryland~~

6 ~~(2006 Replacement Volume and 2007 Supplement)~~

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

9 **Article – Family Law**

10 9–304.

11 If a child is under the age of 16 years, a relative who knows that another person
12 is the lawful custodian of the child may not, **WITH THE INTENT TO DEPRIVE THE**
13 **LAWFUL CUSTODIAN OF THE CUSTODY OF THE CHILD:**

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

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

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

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

22 9–305.

23 (a) If a child is under the age of 16 years, a relative who knows that another
24 person is the lawful custodian of the child may not, **WITH THE INTENT TO DEPRIVE**
25 **THE LAWFUL CUSTODIAN OF THE CUSTODY OF THE CHILD:**

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

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

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

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

2 (b) If a child is under the age of 16 years, a relative who knows that another
3 person is the lawful custodian of the child may not, **WITH THE INTENT TO DEPRIVE**
4 **THE LAWFUL CUSTODIAN OF THE CUSTODY OF THE CHILD:**

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

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

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

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

17 ~~9-306.1.~~

18 ~~IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION UNDER § 9-304 OR~~
19 ~~§ 9-305 OF THIS SUBTITLE THAT:~~

20 ~~(1) THE DEFENDANT ACTED IN ACCORDANCE WITH THE~~
21 ~~PROVISIONS OF A VALID COURT ORDER GRANTING LEGAL CUSTODY OR~~
22 ~~VISITATION RIGHTS THAT WAS OBTAINED UNDER THE UNIFORM CHILD~~
23 ~~CUSTODY JURISDICTION ACT;~~

24 ~~(2) THE DEFENDANT WAS FLEEING AN INCIDENCE OR PATTERN~~
25 ~~OF DOMESTIC VIOLENCE; OR~~

26 ~~(3) THE DEFENDANT:~~

27 ~~(I) HAD PHYSICAL CUSTODY OF THE CHILD UNDER A~~
28 ~~COURT ORDER GRANTING LEGAL CUSTODY OR VISITATION RIGHTS;~~

29 ~~(II) FAILED TO TIMELY RETURN THE CHILD DUE TO~~
30 ~~CIRCUMSTANCES BEYOND THE DEFENDANT'S CONTROL;~~

31 ~~(III) NOTIFIED OR MADE REASONABLE ATTEMPTS TO NOTIFY~~
32 ~~THE OTHER PARENT OR LAWFUL CUSTODIAL GUARDIAN WITHIN 24 HOURS~~
33 ~~AFTER THE VISITATION EXPIRED; AND~~

1 ~~(IV) RETURNED THE CHILD AS SOON AS POSSIBLE.~~

2 9-307.

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

6 (b) If the child is out of the custody of the lawful custodian for not more than
7 30 days, a person who violates any provision of § 9-305(a) of this subtitle is guilty of a
8 felony and on conviction is subject to a fine not exceeding [\$250] ~~\$5,000~~ \$1,000 or
9 imprisonment not exceeding [30 days] ~~5 YEARS~~ 1 YEAR, or both.

10 (c) If the child is out of the custody of the lawful custodian for more than 30
11 days, a person who violates any provision of § 9-305(a) of this subtitle is guilty of a
12 felony and on conviction is subject to a fine not exceeding [\$1,000] ~~\$10,000~~ \$2,500 or
13 imprisonment not exceeding [1 year] ~~10 3 YEARS~~, or both.

14 (d) A person who violates any provision of § 9-305(b) of this subtitle is guilty
15 of a felony and on conviction is subject to a fine not exceeding [\$5,000] ~~\$10,000~~ or
16 imprisonment not exceeding [3] ~~10 5~~ years or both.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.