

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 744

(Senator McKay)

Judicial Proceedings

Criminal Law - Interference of Custody Orders - Penalties

This bill prohibits a person from knowingly and willfully interfering with a custody order over which a Maryland court has jurisdiction by enticing or persuading a minor away or withholding a minor from (1) the minor's lawful custodian; (2) a court-appointed guardian; or (3) a person lawfully standing in *loco parentis*. Violators are subject to escalating penalties for repeat offenses.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: Potential minimal operational impact for local law enforcement agencies to track subsequent offenses, as discussed below. The bill is otherwise not anticipated to impact local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: Violators are subject to the following penalties:

- for a first offense, a written warning;
 - for a second offense, a civil fine not exceeding \$250;
 - for a third offense, a civil fine not exceeding \$500;
 - for a fourth offense, a misdemeanor punishable by imprisonment for up to 30 days;
- and

- for a fifth or subsequent offense, a misdemeanor punishable by imprisonment for up to one year.

A written warning for a violation must be signed by the law enforcement officer issuing the warning and must contain (1) the name, address, and date of birth of the violator; (2) the date and time that the violation occurred; (3) a description of the violation that occurred; and (4) notice of the potential penalties that may be imposed for subsequent violations.

Current Law:

Jurisdiction Over Child Custody and Modification of a Child Custody Order

Title 9 of the Family Law Article generally outlines custody proceedings and required judicial determinations, as specified.

An equity court in this State has jurisdiction over custody and visitation of a child who is removed from this State by a parent of the child if (1) the parents are separated or divorced and this State was the marital domicile of the parents or the domicile in which the marriage contract was last performed; (2) one of the parents was a resident of this State when the child was removed and that parent continues to reside in this State; and (3) the court obtains personal jurisdiction over the parent who removes the child. This does not affect any other basis of an equity court's jurisdiction over custody and visitation of a child.

In a conflict between a custody order of a Maryland court and a custody order of a court of another state, a Maryland custody order prevails over an out-of-state custody order. However, an out-of-state custody order prevails over a Maryland custody order if the court in the other state passed its custody order (1) after the custody order was passed by a Maryland court and (2) in proceedings in which the lawful custodian under the Maryland custody order consented to the out-of-state custody order or participated personally as a party. "Lawful custodian" means a person who is authorized to have custody over a child younger than age 16, including a person who is authorized to have custody of the child by an order of a Maryland court or out-of-state court.

Subject to specified statutory provisions regarding evidence of abuse and neglect and individuals with specified convictions, in determining what legal and physical custody is in the best interest of the child, the court may consider specified factors. The court may modify a child custody or visitation order if the court determines that (1) there has been a material change in circumstances since the issuance of the order that relates to the needs of the child or the ability of the parents to meet those needs and (2) modifying the order is in the best interest of the child. A parent's proposal to relocate the residence of the parent or

child in a way that would cause physical custody to be impracticable constitutes a material change in circumstances.

Family Law Custodial Removal Offenses – Family Law Article §§ 9-304 through 9-307

In general, if a child is younger than age 16, a relative who knows that another person is the lawful custodian of the child may not, with the intent to deprive the lawful custodian of the custody of the child (1) abduct, take, or carry away the child from the lawful custodian; (2) having acquired lawful possession of the child, detain the child for more than 48 hours after the lawful custodian demands that the child be returned; (3) harbor or hide the child knowing that possession of the child was obtained by another relative in violation of statute; or (4) act as an accessory to these acts. A “relative” is a parent, grandparent or other ancestor, brother, sister, aunt, uncle, or an individual who was a lawful custodian of the child prior to commission of the violation.

If the offense occurred completely within Maryland, a violator is guilty of a misdemeanor punishable by imprisonment for up to 30 days and/or a \$250 maximum fine.

If the child was taken to or detained in another state, a violator is guilty of a felony punishable by (1) imprisonment for up to one year and/or a \$1,000 maximum fine if the child was missing for up to 30 days or (2) imprisonment for up to three years and/or a \$2,500 maximum fine if the child was missing for more than 30 days.

If the child was taken to or detained in an international location, a violator is guilty of a felony punishable by imprisonment for up to five years and/or a \$5,000 maximum fine.

A violator may file in an equity court a petition that (1) states that failure to commit the violation would have resulted in a clear and present danger to the health, safety, or welfare of the child; and (2) seeks to revise, amend, or clarify the custody order. If a petition is filed within 96 hours of the act, a finding by the court that, at the time the act was done, a failure to act would have resulted in a clear and present danger to the health, safety, or welfare of the child is a complete defense to any action brought for a violation.

Child Kidnapping – Criminal Law Article § 3-503

A person may not, without color of right:

- forcibly abduct, take, or carry away a child younger than age 12 from the home or usual place of abode of the child or the custody and control of the child’s parent or legal guardian;

- without the consent of the child’s parent or legal guardian, persuade or entice a child younger than age 12 from the child’s home or usual place of abode or the custody and control of the child’s parent or legal guardian; or
- with the intent of depriving the child’s parent or legal guardian, or any person lawfully possessing the child, of the custody, care, and control of the child, knowingly secrete or harbor a child younger than age 12.

Violators are guilty of a felony, punishable by imprisonment for up to 20 years.

A person may not, by force or fraud, kidnap, steal, take, or carry away a child younger than age 16. A person, other than a parent of the child, who violates this prohibition is guilty of a felony, punishable by imprisonment for up to 30 years. However, if a person convicted of this offense is convicted in the same proceeding of rape or a first-degree sexual offense, the person is guilty of a felony, punishable by imprisonment not exceeding life without the possibility of parole. The State must notify the defendant in writing of the State’s intention to pursue a penalty of life imprisonment without the possibility of parole at least 30 days before trial.

State and Local Fiscal Effect: The Judiciary advises that because the District Court system is case-based, it cannot track subsequent violations for an individual under the penalty provisions of the bill. Therefore, it advises law enforcement agencies would be responsible for charging an individual with subsequent violations.

St. Mary’s County anticipates adopting new procedures and systems regarding the documentation and tracking of an individual’s subsequent offenses of interfering with a custody order.

The Department of Legislative Services assumes any increase in operations for law enforcement under the bill is minimal and absorbable with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 942 (Delegate S. Johnson) - Judiciary.

Information Source(s): Baltimore, Carroll, Queen *Anne’s*, and St. Mary’s counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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