



BILL NO: Senate Bill 744
TITLE: Criminal Law - Interference of Custody Orders - Penalties
COMMITTEE: Judicial Proceedings
HEARING DATE: March 3, 2026
POSITION: UNFAVORABLE

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that works to lead diverse community partners toward the common purpose of reducing the occurrence and impact of intimate partner violence. **MNADV urges an unfavorable report on SB 744.**

While Senate Bill 744 purports to prevent "parental kidnapping," the real but perhaps unintended negative consequence is that it would potentially criminalize survivors who are fleeing for their safety and often their lives. This bill, like another bill brought by the same advocates, is a bill that punishes a person, usually the other parent of a child, rather than focusing on the child and addressing the issue through already existing civil means. Increasing the conflict between parents, in this case in the criminal arena, is not child focused. Research and child welfare data suggest that criminalizing custody interference—while intended to prevent "parental kidnapping"—can create a secondary set of serious risks for children. The issues generally fall into two categories: the trauma of the legal process itself and the long-term developmental impact of parental incarceration.¹

Senate Bill 744 would prohibit a person from "knowingly and willfully interfering with a custody order" by withholding a minor from a lawful custodian. However, survivors often flee across state lines or to undisclosed locations to escape an abuser. Under this bill, if a survivor leaves with their child to find safety before a court can modify a custody order, they could face criminal penalties for "interfering" with the abuser's custody rights. In addition, there are no "Safe Harbor", or explicit protective order carve outs. Thus, if a survivor flees an abuser who

¹ <https://emergingminds.com.au/resources/the-impact-of-parental-incarceration-on-child-behaviour-and-development/#:~:text=For%20children%2C%20parental%20incarceration%20is,%5BLCLSIC%5D%2C%202022>). Last viewed, February 23, 2026 (" For children, parental incarceration is considered an adverse childhood experience (ACE) due to its traumatic nature and impact on their wellbeing and development") (citation omitted). See also <https://www.irp.wisc.edu/resource/how-witnessing-a-parents-arrest-can-get-under-the-skin-of-a-child/#:~:text=The%20mechanisms%20regulating%20stress%20hormones,their%20father%20arrested%E2%80%94happens%20consistently>.



has partial custody, the abuser can call the police and claim the survivor is "kidnapping" the child.

By increasing penalties and formalizing the "interference" as a specific criminal offense, the bill gives abusers a new tool to use the legal system to harass or re-traumatize the survivor ("litigation abuse").

Domestic violence is often about power and control. If a survivor believes that leaving an abusive household with their child will lead to a criminal record or jail time, they are significantly more likely to stay in a dangerous environment. SB 744 creates a legal deterrent that may force survivors to choose between their physical safety and their freedom from incarceration.

Further, Maryland family law strongly prioritizes the "best interest of the child." Senate Bill 744 shifts the focus from the child's safety to the technical adherence to a custody schedule. If a child is in danger at the abuser's home, a survivor who keeps the child past their scheduled time (for protection) could be charged with a crime before they even have the chance to present evidence of the abuse in a civil family court.

Senate Bill 744 also does not provide any of the following defenses to withholding a child contrary to a court order:

- A clear and present danger to the child or parent;
- Fleeing domestic violence or stalking.
- Protective orders that might conflict with the custody order.

Under current Maryland law (specifically Criminal Law § 3-503), there is a general "Child Abduction" statute that does allow a defense if the person was "fleeing from domestic violence." The danger of SB 744 is that it creates a new, separate section (§ 3-504) that does not explicitly reference those existing protections. Prosecutors could theoretically choose to charge a survivor under this new, stricter section to avoid the domestic violence defense available in the older statute.

Instead, SB 744, focuses purely on the act of "knowingly and willfully" interfering with the order. In legal terms, if you know a court order says the child should be with custodial person A, and you keep the child, you have technically met the criteria for a violation under this bill, regardless of why you did it.

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For all of the above reasons, **MNADV urges an unfavorable report in SB 744.**

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