

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 668

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CHILD CUSTODY INTERFERENCE; PROVIDING LEGISLATIVE INTENT;
2 AMENDING SECTION 18-4506, IDAHO CODE, TO REVISE PROVISIONS REGARD-
3 ING CHILD CUSTODY INTERFERENCE AND TO ESTABLISH PROVISIONS REGARDING
4 PENALTIES AND ENFORCEMENT; AND DECLARING AN EMERGENCY AND PROVIDING AN
5 EFFECTIVE DATE.
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7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to
9 strengthen Idaho's child custody interference law by clarifying enforcement
10 duties, providing uniform guidance, establishing objective timelines for
11 response and compliance, and implementing a graduated penalty structure
12 that ensures proportional accountability. The Legislature affirms that
13 child custody interference is a criminal offense under Title 18, Idaho Code,
14 and is distinct from kidnapping. The Legislature further intends to ensure
15 that children subject to custodial interference receive prompt welfare
16 checks.

17 SECTION 2. That Section 18-4506, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 18-4506. CHILD CUSTODY INTERFERENCE DEFINED -- DEFENSES -- PUNISH-
20 MENT. ~~1-~~ (1) A person commits child custody interference if the person,
21 whether a parent or other, or agent of that person, intentionally and without
22 lawful authority:

23 (a) Takes, entices away, keeps or withholds any minor child from a
24 parent or another person or institution having custody, joint cus-
25 tody, visitation or other parental rights, whether such rights arise
26 from temporary or permanent custody order, or from the equal custodial
27 rights of each parent in the absence of a custody order; or

28 (b) Takes, entices away, keeps or withholds a minor child from a parent
29 after commencement of an action relating to child visitation or custody
30 but prior to the issuance of an order determining custody or visitation
31 rights.

32 ~~2-~~ (2) It shall be an affirmative defense to a violation of the provi-
33 sions of subsection ~~1-~~ (1) of this section and the charged party has the bur-
34 den to establish that:

35 (a) The action is taken to protect the child from imminent physical
36 harm;

37 (b) The action is taken by a parent fleeing from imminent physical harm
38 to himself;

39 (c) The action is consented to by the lawful custodian of the child; or

40 ~~(d) The child is returned within twenty-four (24) hours after expira-~~
41 ~~tion of an authorized visitation privilege.~~

1 (d) Compliance with a custody order at the specified time was tem-
2 porarily impracticable due to circumstances beyond the control of the
3 charged party, provided that any of the following are established:

4 (i) The circumstance was not reasonably avoidable through or-
5 inary planning or diligence at the time compliance was required
6 and was not based on speculation, prediction, or hindsight assess-
7 ment;

8 (ii) The circumstance rendered timely compliance objectively im-
9 practicable or unsafe and was not based on personal convenience,
10 preference, or disagreement with the custody order;

11 (iii) The failure to comply did not extend beyond the period dur-
12 ing which compliance was actually impracticable or unsafe, and
13 compliance was resumed at the earliest feasible time;

14 (iv) The charged party made reasonable and timely efforts to no-
15 tify the other parent of the delay and the reason for it as soon as
16 practicable;

17 (v) The charged party took reasonable steps to mitigate the de-
18 lay and to minimize interference with the other parent's custodial
19 time; or

20 (vi) The circumstance was not used as a pretext to withhold the
21 child or to interfere with the other parent's custodial rights.

22 (3) A temporary delay attributable solely to circumstances meeting
23 the requirements of subsection (2) (d) of this section does not constitute
24 child custody interference where, based on objective and contemporaneously
25 observable conditions, a law enforcement officer has no reasonable basis to
26 doubt the explanation provided, and the officer may document the encounter
27 by incident report rather than issuing a citation or offense report, without
28 limiting future enforcement if a violation is later established.

29 3. A violation of the provisions of subsection 1. of this section shall
30 be a felony, unless the defendant did not take the child outside the state,
31 and the child was voluntarily returned unharmed prior to the defendant's ar-
32 rest in which case the violation shall be reduced to a misdemeanor.

33 4. (4) Any reasonable expenses incurred by a lawful custodian in locat-
34 ing or attempting to locate a child taken in violation of the provisions of
35 subsection 1. of this section may be assessed against the defendant at the
36 court's discretion in accordance with chapter 53, title 19, Idaho Code.

37 (5) (a) A person guilty of child custody interference shall be punished
38 as follows:

39 (i) For a first offense, such person shall be subject to an in-
40 fraction punishable by a fine not to exceed one hundred dollars
41 (\$100).

42 (ii) For a second offense, such person shall be subject to an in-
43 fraction punishable by a fine not to exceed three hundred dollars
44 (\$300).

45 (iii) For a third and fourth offense, such person shall be guilty
46 of a misdemeanor punishable by a fine not to exceed one thousand
47 dollars (\$1,000), imprisonment not to exceed two (2) days, or both
48 such fine and imprisonment.

49 (iv) For a fifth offense and subsequent offenses, such person
50 shall be guilty of a felony punishable by a fine not to exceed five

1 thousand dollars (\$5,000), imprisonment not to exceed one (1)
2 year, or both such fine and imprisonment.

3 (b) For any report of child custody interference, law enforcement offi-
4 cers shall:

5 (i) Verify the location of the minor child, if possible;

6 (ii) Check the safety and well-being of the child; and

7 (iii) Complete a written offense report based on the law enforce-
8 ment officer's findings. Such report shall include, at a minimum:

9 1. The date and time of the safety check;

10 2. The location of the child;

11 3. The observable physical condition of the child; and

12 4. Any statements made by the child or caregivers relevant
13 to the child's safety or well-being.

14 (6) Additional periods of physical custody or visitation of the minor
15 child to compensate for the denial of physical custody or visitation to the
16 lawful custodian of the minor child in violation of this section shall be
17 governed pursuant to chapter 7, title 32, Idaho Code.

18 SECTION 3. An emergency existing therefor, which emergency is hereby
19 declared to exist, this act shall be in full force and effect on and after
20 July 1, 2026.