

Senate Bill 480

By: Senators Albers of the 56th, Robertson of the 29th and Dickerson of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,
2 relating to kidnapping, false imprisonment, and related offenses, so as to revise provisions
3 relative to the offenses of interference with custody and interstate interference with custody;
4 to require law enforcement officers to issue a citation to persons suspected of interference
5 with custody to appear in court within a time certain to present properly executed
6 documentation or other tangible evidence showing that such person's conduct was
7 authorized; to require preliminary hearings within seven business days of the issuance of
8 such citations; to provide an applicable standard for probable cause; to make it unlawful for
9 a person to present false documentation in connection with proceedings provided for in this
10 Act; to provide for penalties; to revise and repeal definitions; to provide a short title; to
11 provide for related matters; to provide for an effective date and applicability; to repeal
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Georgia Custodial Interference Reform
16 Act."

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SECTION 2.

18 Article 3 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
 19 kidnapping, false imprisonment, and related offenses, is amended by revising Code
 20 Section 16-5-45, relating to interference with custody, as follows:

21 "16-5-45.

22 (a) As used in this Code section, the term:

23 (1) 'Child' means any individual who is under the age of ~~17~~ 18 years ~~or any individual~~
 24 ~~who is under the age of 18 years who is alleged to be a dependent child or a child in need~~
 25 ~~of services as such terms are defined in Code Section 15-11-2.~~

26 (2) '~~Committed person~~' means ~~any child or other person whose custody is entrusted to~~
 27 ~~another individual by authority of law.~~

28 (3) 'Lawful custody' means that ~~custody inherent in the natural parents, that custody~~
 29 ~~awarded by proper authority as provided in Code Section 15-11-133, or that custody~~
 30 awarded to a parent, guardian, or other person by a court of competent jurisdiction.

31 (4)(3) 'Service provider' means an entity that is registered with the Department of Human
 32 Services pursuant to Article 7 of Chapter 5 of Title 49 or a child welfare agency as
 33 defined in Code Section 49-5-12 or an agent or employee acting on behalf of such entity
 34 or child welfare agency.

35 (b)(1) A person commits the offense of interference with custody when without lawful
 36 authority to do so, the person:

37 (A) ~~Knowingly~~ knowingly or recklessly takes, retains, or entices any child or
 38 ~~committed person~~ away from the individual, parent, or legal custodian who, pursuant
 39 to a valid court order, has lawful custody of such child ~~or committed person~~ or is
 40 exercising a current right of visitation of such child.;

41 (2)(A)(i) When a law enforcement officer has probable cause to believe that a person
 42 has interfered with custody in violation of this subsection, the law enforcement officer
 43 shall issue to such person a citation ordering the person to appear at the magistrate

44 court of the county having jurisdiction within 72 hours, excluding weekends and legal
45 holidays, and present to the presiding judge of the magistrate court or, if directed by
46 the presiding judge, to the clerk of the magistrate court properly executed
47 documentation or other tangible evidence showing that the conduct for which such
48 person was issued a citation under this subparagraph was authorized.

49 (ii) For purposes of determining probable cause under this paragraph, a law
50 enforcement officer shall be authorized to rely upon a custody order or parenting plan
51 issued by a court of competent jurisdiction that is facially valid, together with the
52 officer's observation or credible information indicating that a child has been taken or
53 retained beyond the lawful period of visitation or parenting time specified in such
54 order or plan. Such order or plan shall be deemed facially valid if stamped or
55 otherwise endorsed as 'filed' or otherwise certified by the clerk of the court of
56 competent jurisdiction.

57 (B) A preliminary hearing on the citation shall be held within seven business days of
58 the date such citation was issued pursuant to subparagraph (A) of this paragraph to
59 consider the matter.

60 (3) A person who commits the offense of interference with custody shall:

61 (A) Upon the first conviction thereof, be guilty of a misdemeanor and shall be
62 punished by a fine not to exceed \$1,000.00 or by imprisonment for not more than 12
63 months, or both;

64 (B) Upon the second conviction thereof, be guilty of a misdemeanor of a high and
65 aggravated nature and shall be punished by a fine of not less than \$1,000.00 nor more
66 than \$5,000.00 or by imprisonment for not more than 12 months, or both; and

67 (C) Upon the third or subsequent conviction thereof, be guilty of a felony and shall be
68 punished by imprisonment for not less than one nor more than five years and a fine not
69 to exceed \$5,000.00.

70 (4) In any criminal proceeding under this subsection, the venue shall be proper in:

- 71 (A) The county where the custody order was issued;
- 72 (B) The county where the child was to have been transferred pursuant to the custody
- 73 order; or
- 74 (C) The county where the child was unlawfully taken or retained.
- 75 ~~(B)(5) This subsection~~ Knowingly harbors any committed person who has absconded;
- 76 ~~provided, however, that this subparagraph shall not apply to a service provider that~~
- 77 ~~notifies the child's parent, guardian, or legal custodian of the child's location and general~~
- 78 ~~state of well being as soon as possible but not later than 72 hours after the child's~~
- 79 ~~acceptance of services; provided, further, that such notification shall not be required if:~~
- 80 ~~(i)(A) The service provider has reasonable cause to believe that the minor child has~~
- 81 ~~been abused or neglected and makes a child abuse report pursuant to Code~~
- 82 ~~Section 19-7-5;~~
- 83 ~~(ii)(B) The child will not disclose the name of the child's parent, guardian, or legal~~
- 84 ~~custodian, and the Division of Family and Children Services within the Department of~~
- 85 ~~Human Services is notified within 72 hours of the child's acceptance of services; or~~
- 86 ~~(iii)(C) The child's parent, guardian, or legal custodian cannot be reached, and the~~
- 87 ~~Division of Family and Children Services within the Department of Human Services~~
- 88 ~~is notified within 72 hours of the child's acceptance of services; ~~or~~~~
- 89 ~~(C) Intentionally and willfully retains possession within this state of the child or~~
- 90 ~~committed person upon the expiration of a lawful period of visitation with the child or~~
- 91 ~~committed person.~~
- 92 ~~(2) A person convicted of the offense of interference with custody shall be punished as~~
- 93 ~~follows:~~
- 94 ~~(A) Upon conviction of the first offense, the defendant shall be guilty of a~~
- 95 ~~misdemeanor and shall be fined not less than \$200.00 nor more than \$500.00 or shall~~
- 96 ~~be imprisoned for not less than one month nor more than five months, or both fined and~~
- 97 ~~imprisoned;~~

98 ~~(B) Upon conviction of the second offense, the defendant shall be guilty of a~~
99 ~~misdemeanor and shall be fined not less than \$400.00 nor more than \$1,000.00 or shall~~
100 ~~be imprisoned for not less than three months nor more than 12 months, or both fined~~
101 ~~and imprisoned; and~~

102 ~~(C) Upon the conviction of the third or subsequent offense, the defendant shall be~~
103 ~~guilty of a felony and shall be punished by imprisonment for not less than one nor more~~
104 ~~than five years.~~

105 (c)(1) A person commits the offense of interstate interference with custody when without
106 lawful authority to do so the person knowingly removes a child from the state in violation
107 of a lawful court order. A person who commits the offense of interstate interference shall
108 be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for
109 not less than one nor more than five years and a fine not to exceed \$5,000.00. knowingly
110 or recklessly takes or entices any minor or committed person away from the individual who
111 has lawful custody of such minor or committed person and in so doing brings such minor
112 or committed person into this state or removes such minor or committed person from this
113 state.

114 ~~(2) A person also commits the offense of interstate interference with custody when the~~
115 ~~person removes a minor or committed person from this state in the lawful exercise of a~~
116 ~~visitation right and, upon the expiration of the period of lawful visitation, intentionally~~
117 ~~retains possession of the minor or committed person in another state for the purpose of~~
118 ~~keeping the minor or committed person away from the individual having lawful custody~~
119 ~~of the minor or committed person. The offense is deemed to be committed in the county~~
120 ~~to which the minor or committed person was to have been returned upon expiration of the~~
121 ~~period of lawful visitation.~~

122 ~~(3) A person convicted of the offense of interstate interference with custody shall be guilty~~
123 ~~of a felony and shall be imprisoned for not less than one year nor more than five years.~~

124 (d)(1) It shall be unlawful for any person to knowingly alter, conceal, cover up, or create
125 a document and present any document in connection with proceedings under this Code
126 section knowing or having reason to know that such document has been altered or
127 contains a materially false, fictitious, or fraudulent statement or representation.

128 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony
129 and, upon conviction thereof, shall be punished by imprisonment of not less than one nor
130 more than ten years, a fine not to exceed \$10,000.00, or both."

131 **SECTION 3.**

132 This Act shall become effective on July 1, 2026, and shall apply to all offenses committed
133 on or after such date.

134 **SECTION 4.**

135 All laws and parts of laws in conflict with this Act are repealed.