

CHAPTER 484 — H.F.No. 1347

An act relating to crimes; prohibiting a person from depriving another of parental, custodial, or visitation rights; imposing penalties; providing for notification in custody or visitation orders of the deprivation of parental rights laws; requiring violations of the parental rights law to be reported under the child abuse reporting law; imposing a penalty; amending Minnesota Statutes 1982, sections 609.26; and 626.556, by adding a subdivision; proposing new law coded in Minnesota Statutes, chapter 518.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [518.177] NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.

Every court order and judgment and decree concerning custody of or visitation with a minor child shall restate the provisions of section 609.26.

Sec. 2. Minnesota Statutes 1982, section 609.26, is amended to read:

609.26 OBTAINING OR RETAINING A CHILD DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS.

Subdivision 1. Whoever intentionally takes, detains or fails to return does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals his own a minor child under the age of 18 years in violation of an existing court order which grants another person rights of custody may be sentenced as provided in subdivision 5 from the child's parent or other person having the right to visitation or custody, where the action manifests an intent substantially to deprive that parent or other person of his rights to visitation or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260 to the commissioner of public welfare, a child placing agency, or the county welfare board;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent or other person having the right to visitation or custody under a court order, where the action manifests an intent substantially to deprive that parent or other person having the right to visitation or custody of his rights to visitation or custody; or

(4) takes, obtains, retains, or fails to return a minor child from or to a parent or other person having the right to visitation or custody after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests

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an intent substantially to deprive that parent or other person having the right to visitation or custody of his rights to visitation or custody.

Subd. 2. **DEFENSES.** ~~Whoever detains or fails to return a child under the age of 18 years knowing that the physical custody of the child has been obtained or retained by another in violation of subdivision 1 may be sentenced as provided in subdivision 5. No person violates subdivision 1 if the action:~~

(1) is taken to protect the child or the person taking the action from physical or emotional harm or sexual assault;

(2) is consented to by the parent, stepparent, or legal custodian seeking prosecution; or

(3) is otherwise authorized by a court order.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Subd. 3. **VENUE.** A person who violates this section may be prosecuted and tried either in the county in which the child was taken, concealed, or detained or in the county of lawful residence of the child.

Subd. 4. **RETURN OF CHILD; COSTS.** A child who has been concealed, obtained, or retained in violation of this section shall be returned to the person having lawful custody of the child or shall be taken into custody pursuant to section 260.165, subdivision 1, paragraph (c), clause (2). In addition to any sentence imposed, the court may assess any expense incurred in returning the child against any person convicted of violating this section. The court may direct the appropriate county welfare agency to provide counseling services to a child who has been returned pursuant to this subdivision.

Subd. 5. **DISMISSAL OF CHARGE.** A felony charge brought under this section shall be dismissed if:

(a) the person voluntarily returns the child within 14 days after he takes, detains, or fails to return the child in violation of this section; or

(b)(1) the person taking the action and the child have not left the state of Minnesota; and (2) within a period of 14 days after taking the action, (i) a motion or proceeding under chapters 518, 518A, 518B, or 518C is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to chapters 518, 518A, 518B, or 518C.

Subd. 5 6. **PENALTY.** Except as otherwise provided in subdivision 5, whoever violates this section may be sentenced as follows:

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(1) To imprisonment for not more than 90 days or to payment of a fine of not more than \$500, or both, if he voluntarily returns the child within 14 days after he takes, detains, or fails to return the child in violation of this section; or

(2) Otherwise to imprisonment for not more than one year and one day or to payment of a fine of \$1,000 \$3,000, or both.

Subd. 7. REPORTING OF DEPRIVATION OF PARENTAL RIGHTS. Any violation of this section shall be reported pursuant to section 3.

Sec. 3. Minnesota Statutes 1982, section 626.556, is amended by adding a subdivision to read:

Subd. 3a. REPORT OF DEPRIVATION OF PARENTAL RIGHTS. A person mandated to report under subdivision 3, who knows or has reason to know of a violation of section 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.26 shall not be construed to invoke the duties of subdivisions 10, 10a, or 10b of this section.

Sec. 4. EFFECTIVE DATE.

Sections 1 and 3 are effective August 1, 1984. Section 2 is effective August 1, 1984, and applies to crimes committed on or after that date.

Approved April 25, 1984

CHAPTER 485 — H.F.No. 1371

An act relating to state government; providing for a day care center for state employees in the capitol complex; amending Minnesota Statutes 1982, section 16.02, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 16.02, is amended by adding a subdivision to read:

Subd. 31. To provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in chapter 16. The commissioner shall report back to the legislature by October 1, 1984, with the recommendation to implement the private day care operation.

Sec. 2. EFFECTIVE DATE.

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