

House Study Bill 14

Bill Text

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1 1 Section 1. NEW SECTION. 598.23B UNLAWFUL INTERFERENCE
1 2 WITH VISITATION.
1 3 1. If a party to a temporary order or final decree detains
1 4 or conceals a child with the intent to deprive another person
1 5 of that person's rights to visitation, the person detaining or
1 6 concealing the child commits unlawful interference with
1 7 visitation.
1 8 2. a. A law enforcement officer who has cause to believe
1 9 that a person has committed or is committing unlawful
1 10 interference with visitation shall issue a citation to the
1 11 person. The citation shall include the name and address of
1 12 the person, the nature of the offense, the time and place at
1 13 which the person is to appear in court, and the penalty for
1 14 nonappearance. Before the cited person is released, the
1 15 person shall sign the citation as a written promise to appear
1 16 in court at the time and place specified. A copy of the
1 17 citation shall be given to the person.
1 18 b. The law enforcement officer issuing the citation shall
1 19 file a complaint in the court in which the cited person is
1 20 required to appear, as soon as practicable, charging the
1 21 person with the crime of unlawful interference with
1 22 visitation.
1 23 3. Upon failure of the cited person to appear in court,
1 24 the court shall issue an arrest warrant for the person.
1 25 4. It is an affirmative defense to unlawful interference
1 26 with visitation that any of the following conditions exist:
1 27 a. A person committed the act to protect the child from
1 28 imminent physical harm, provided that the person had a
1 29 reasonable belief that the physical harm was imminent and that
1 30 the person's conduct in withholding visitation was a
1 31 reasonable response to the physical harm reasonably believed
1 32 to be imminent.
1 33 b. The act was committed with the mutual consent of all
1 34 parties having a right to custody and visitation of the child.
1 35 c. The act is otherwise authorized by law.
2 1 5. A person who commits unlawful interference with
2 2 visitation under this section commits the following violation:
2 3 a. For a first or second offense, the person commits a
2 4 scheduled violation under section 805.8, subsection 13.
2 5 b. For a third or subsequent offense, the person commits a
2 6 serious misdemeanor.
2 7 Sec. 2. Section 805.8, Code 1999, is amended by adding the
2 8 following new subsection:
2 9 NEW SUBSECTION. 13. UNLAWFUL INTERFERENCE WITH
2 10 VISITATION. For a first violation under section 598.23B, the
2 11 scheduled fine is one hundred dollars. For a second violation
2 12 under section 598.23B, the scheduled fine is two hundred
2 13 dollars.
2 14 Sec. 3. Section 805.10, Code 1999, is amended by adding
2 15 the following new subsection:
2 16 NEW SUBSECTION. 2A. When the violation charged is
2 17 unlawful interference with visitation under section 598.23B.
2 18 EXPLANATION
2 19 This bill establishes the crime of unlawful interference
2 20 with visitation, the penalty for which is a scheduled fine of
2 21 \$100 for a first offense, \$200 for a second offense; and a

2 22 serious misdemeanor for a third or subsequent offense, for
2 23 which the punishment is a fine of at least \$250, not to exceed
2 24 \$1,500, and in addition may include imprisonment not to exceed
2 25 one year. Unlawful interference with visitation means
2 26 detaining or concealing a child with the intent to deprive
2 27 another person of that person's rights to visitation. The
2 28 bill also requires an appearance by the defendant before the
2 29 court on a charge of unlawful interference with visitation.
2 30 LSB 1727YC 78
2 31 pf/sc/14