

ACT 146

S.B. NO. 2381

A Bill for an Act Relating to Missing Children.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 707-726, Hawaii Revised Statutes, is amended to read as follows:

**“§707-726 Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the first degree if:

- (a) [A relative of a minor:] The person:
  - (i) Intentionally or knowingly violates a court order issued pursuant to chapter 586, or [the person] intentionally or knowingly takes, entices, conceals, or detains the minor from any other person who has a right to custody pursuant to a court order, judgment, or decree; and
  - (ii) Removes the minor from the State; [or]
- (b) [The relative] The person intentionally or knowingly takes, entices, conceals, or detains a [child] minor less than eleven years old from that [child’s] minor’s lawful custodian, knowing that the [relative] person had no right to do so[.]; or
- (c) The person, in the absence of a court order determining custody or visitation rights, intentionally or knowingly takes, detains, conceals, or entices away a minor with the intent to deprive another person or a public agency of their right to custody, and removes the minor from the State.

(2) It is an affirmative defense to a prosecution under this section that the person had “good cause” for the violation of a court order issued pursuant to chapter 586, for the taking, detaining, concealing, or enticing away of the minor, or for removing the minor from the State; provided that the person asserting the

affirmative defense filed a report with the clerk of the family court detailing the whereabouts of the minor, the person who took, enticed, detained, concealed, or removed the minor or child, and the circumstances of the event as soon as the filing of the report was practicable; and provided further that the person asserting the affirmative defense also filed a request for a custody order as soon as the filing of the request was practicable.

As used in this section, “good cause” means a good faith and reasonable belief that the taking, detaining, concealing, enticing away, or removing of the minor is necessary to protect the minor from immediate bodily injury.

(3) The identity and address of the person reporting under subsection (2) shall remain confidential unless the information is released pursuant to a court order.

[(2)] (4) Custodial interference in the first degree is a class C felony.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1996.)