

HB 2699 -- CUSTODY OR VISITATION OF A CHILD

SPONSOR: Hicks

This bill specifies that every court order establishing or modifying custody or visitation must include the following language: "In the event of noncompliance with this order, the offending party shall be referred to the local prosecuting attorney's office and may be subject to criminal liability under Section 565.150 or 565.153", (Section 452.375, RSMo).

The bill also specifies that the cost to file pro se family access or contempt motions will be waived if accompanied by a copy of a summons, information, or indictment issued for a violation of Section 565.150, which is the offense of interference with custody, or Section 565.153, which is the offense of parental kidnapping (Section 452.400).

Any court order for the custody of or visitation with a child shall, include a provision that the sheriff or other law enforcement officer will enforce the rights of any person to custody or visitation by issuing a summons for a violation of Section 565.150 or 565.153, if applicable. The sheriff or law enforcement officer will not issue such a summons unless the sheriff or officer is shown a court order or judgment that clearly and convincingly verifies that the person is not entitled to actual physical custody of or visitation with the child (Section 452.425).

The bill modifies the offenses of interference with custody and parental kidnapping to include visitation. The bill also establishes new tiers of penalties for both offenses. The current penalty for the offense of interference with custody is a class A misdemeanor unless the person taken or enticed away from legal custody is removed from the state, detained in another state, or concealed, in which case it is a class E felony. The new penalty is tiered:

- (1) A class D misdemeanor for the first violation;
- (2) A class C misdemeanor for the second violation;
- (3) A class B misdemeanor for the third violation;
- (4) A class A misdemeanor for the fourth violation; and
- (5) A class E felony for the fifth or subsequent violation.

It remains a class E felony when the person taken or enticed away from custody or visitation is removed from the state, detained in

another state, or concealed (Section 565.150).

The current penalty for the offense of parental kidnapping is a class E felony, unless committed by detaining or concealing the whereabouts of the child for 60-119 days, in which case it is a class D felony, or 120 days or more, in which case it is a class B felony. This bill specifies that, the offense is still a class E felony unless committed by detaining or concealing the whereabouts of the child for 60-119 days, in which case it is a D felony, or 120 days or more, in which case it is a B felony. However if the child is detained or his or her whereabouts concealed for 1-60 days, the penalty is tiered as:

- (1) A class D misdemeanor for the first violation;
- (2) A class C misdemeanor for the second violation;
- (3) A class B misdemeanor for the third violation;
- (4) A class A misdemeanor for the fourth violation; and
- (5) A class E felony for a fifth or subsequent violation.

Currently, upon a finding of guilt under either of these sections, the court may assess restitution against the defendant and in favor of the legal custodian or parent for any reasonable expenses incurred by the legal custodian or parent. This bill allows that, the court may assess restitution in favor of any party entitled to custody or visitation, including, but not limited to, attorneys' fees (Section 565.153).