

HOUSE BILL 675

E1

8lr0771

By: **Delegates King, Bromwell, Costa, Kach, Kipke, Krebs, Kullen, Love, Manno, McHale, Miller, Minnick, Ross, Schuler, Sophocleus, Tarrant, and Walker**

Introduced and read first time: February 1, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Abduction by Noncustodial Relative – Affirmative Defenses**
3 **and Penalties**

4 FOR the purpose of creating certain affirmative defenses to certain prosecutions
5 relating to the abduction of a child under a certain age from a certain custodian
6 by a certain relative to a place within the State, in another state, or outside of
7 the United States or harboring or detaining the child under certain
8 circumstances within the State, in another state, or outside of the United
9 States; altering certain criminal penalties; and generally relating to child
10 abduction.

11 BY repealing and reenacting, without amendments,
12 Article – Family Law
13 Section 9–304 and 9–305
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2007 Supplement)

16 BY adding to
17 Article – Family Law
18 Section 9–306.1
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2007 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Family Law
23 Section 9–307
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Family Law**

4 9–304.

5 If a child is under the age of 16 years, a relative who knows that another person
6 is the lawful custodian of the child may not:

7 (1) abduct, take, or carry away the child from the lawful custodian to a
8 place within this State;

9 (2) having acquired lawful possession of the child, detain the child
10 within this State for more than 48 hours after the lawful custodian demands that the
11 child be returned;

12 (3) harbor or hide the child within this State, knowing that possession
13 of the child was obtained by another relative in violation of this section; or

14 (4) act as an accessory to an act prohibited by this section.

15 9–305.

16 (a) If a child is under the age of 16 years, a relative who knows that another
17 person is the lawful custodian of the child may not:

18 (1) abduct, take, or carry away the child from the lawful custodian to a
19 place in another state;

20 (2) having acquired lawful possession of the child, detain the child in
21 another state for more than 48 hours after the lawful custodian demands that the
22 child be returned;

23 (3) harbor or hide the child in another state knowing that possession
24 of the child was obtained by another relative in violation of this section; or

25 (4) act as an accessory to an act prohibited by this section.

26 (b) If a child is under the age of 16 years, a relative who knows that another
27 person is the lawful custodian of the child may not:

28 (1) abduct, take, or carry away the child from the lawful custodian to a
29 place that is outside of the United States or a territory of the United States or the
30 District of Columbia or the Commonwealth of Puerto Rico;

31 (2) having acquired lawful possession of the child, detain the child in a
32 place that is outside of the United States or a territory of the United States or the

1 District of Columbia or the Commonwealth of Puerto Rico for more than 48 hours after
2 the lawful custodian demands that the child be returned;

3 (3) harbor or hide the child in a place that is outside of the United
4 States or a territory of the United States or the District of Columbia or the
5 Commonwealth of Puerto Rico knowing that possession of the child was obtained by
6 another relative in violation of this section; or

7 (4) act as an accessory to an act prohibited by this section.

8 **9-306.1.**

9 **IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION UNDER § 9-304 OR**
10 **§ 9-305 OF THIS SUBTITLE THAT:**

11 (1) **THE DEFENDANT ACTED IN ACCORDANCE WITH THE**
12 **PROVISIONS OF A VALID COURT ORDER GRANTING LEGAL CUSTODY OR**
13 **VISITATION RIGHTS THAT WAS OBTAINED UNDER THE UNIFORM CHILD**
14 **CUSTODY JURISDICTION ACT;**

15 (2) **THE DEFENDANT WAS FLEEING AN INCIDENCE OR PATTERN**
16 **OF DOMESTIC VIOLENCE; OR**

17 (3) **THE DEFENDANT:**

18 (I) **HAD PHYSICAL CUSTODY OF THE CHILD UNDER A**
19 **COURT ORDER GRANTING LEGAL CUSTODY OR VISITATION RIGHTS;**

20 (II) **FAILED TO TIMELY RETURN THE CHILD DUE TO**
21 **CIRCUMSTANCES BEYOND THE DEFENDANT'S CONTROL;**

22 (III) **NOTIFIED OR MADE REASONABLE ATTEMPTS TO NOTIFY**
23 **THE OTHER PARENT OR LAWFUL CUSTODIAL GUARDIAN WITHIN 24 HOURS**
24 **AFTER THE VISITATION EXPIRED; AND**

25 (IV) **RETURNED THE CHILD AS SOON AS POSSIBLE.**

26 **9-307.**

27 (a) A person who violates any provision of § 9-304 of this subtitle is guilty of
28 a misdemeanor and on conviction is subject to a fine not exceeding \$250 or
29 imprisonment not exceeding 30 days.

30 (b) If the child is out of the custody of the lawful custodian for not more than
31 30 days, a person who violates any provision of § 9-305(a) of this subtitle is guilty of a

1 felony and on conviction is subject to a fine not exceeding [\$250] **\$5,000** or
2 imprisonment not exceeding [30 days] **5 YEARS**, or both.

3 (c) If the child is out of the custody of the lawful custodian for more than 30
4 days, a person who violates any provision of § 9-305(a) of this subtitle is guilty of a
5 felony and on conviction is subject to a fine not exceeding [\$1,000] **\$10,000** or
6 imprisonment not exceeding [1 year] **10 YEARS**, or both.

7 (d) A person who violates any provision of § 9-305(b) of this subtitle is guilty
8 of a felony and on conviction is subject to a fine not exceeding [\$5,000] **\$10,000** or
9 imprisonment not exceeding [3] **10** years or both.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2008.