§303. Criminal restraint by parent

1. A person is guilty of criminal restraint by a parent if, being the parent of a child and knowing the person has no legal right to do so, the person takes, retains or entices the child:

A. Who has not in fact attained 16 years of age, from the custody of the child's other parent, guardian or other lawful custodian with the intent to remove the child from the State or to secrete the child and hold the child in a place where the child is not likely to be found. Violation of this paragraph is a Class C crime; [PL 2007, c. 96, §7 (AMD).]

B. Who resides in another state and who has not in fact attained 16 years of age, from the custody of the child's other parent, guardian or other lawful custodian, whose custodial authority was established by a court of this State, with the intent to remove the child from that state or to secrete the child and hold the child in a place where the child is not likely to be found. Violation of this paragraph is a Class C crime; or [PL 2007, c. 96, §7 (AMD).]

C. Who is either 16 or 17 years of age, from the custody of the Department of Corrections or the Department of Health and Human Services with the intent to remove the child from the State or to secrete the child and hold the child in a place where the child is not likely to be found. Violation of this paragraph is a Class D crime. [PL 2007, c. 96, §7 (NEW).]

[PL 2007, c. 96, §7 (AMD).]

2. Consent by the child taken, enticed or retained is not a defense under this section.
[PL 2007, c. 96, §7 (AMD).]

3. A law enforcement officer may not be held liable for taking physical custody of a child who the officer reasonably believes has been taken, retained or enticed in violation of this section and for delivering the child to a person who the officer reasonably believes is the child's lawful custodian or to any other suitable person.

For purposes of this subsection, "reasonable belief a child has been taken, retained or enticed in violation of this section" includes, but is not limited to, a determination by a law enforcement officer, based on the officer's review of the terms of a certified copy of the most recent court decree granting custody of the child, that the parent who is exercising control over the child is not the person authorized to have custody under terms of the decree.
[PL 2007, c. 96, §7 (AMD).]

4. A law enforcement officer may arrest without a warrant any person who the officer has probable cause to believe has violated or is violating this section.
[PL 2007, c. 96, §7 (AMD).]

5.
[PL 2007, c. 96, §7 (RP).]

SECTION HISTORY

PL 1979, c. 512, §26 (NEW). PL 1981, c. 669, §§1-3 (AMD). PL 2007, c. 96, §7 (AMD).

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