

MAINE STATE LEGISLATURE

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L.D. 1944

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-700)
110TH LEGISLATURE
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 1969, L.D. 1944, Bill,
"AN ACT to Clarify the Criminal Restraint by Parent Law."

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Amend the bill by striking out everything after the
enacting clause and inserting in its place the following:

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'Sec. 1. 17-A MRSA §303, sub-§3, as enacted by PL
1979, c. 512, §26, is amended by adding at the end a new
paragraph to read:

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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 his 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.

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Sec. 2. 17-A MRSA §303, sub-§5, as enacted by PL 1979,
c. 512, §26, is amended to read:

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5. Criminal restraint by parent is a Class E C crime.

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Sec. 3. Legislative findings and intent. The Legis-
lature finds that the criminal restraint of a child by a
noncustodial parent seriously interferes with the state's
interest in the child's welfare. Raising the classification
of the crime to Class C reflects its seriousness and permits
the State to avail itself of federal resources in attempting
to apprehend a person who has committed this crime and left
the State to avoid prosecution. These federal resources are
available to a state because the fleeing noncustodial parent
in "cases involving parental kidnapping and interstate or
international flight to avoid prosecution under applicable
state felony statutes" (United States Code, Title 42,
Section 502) commits the further federal crime of flight to
avoid prosecution under the felony laws of the state from

1 COMMITTEE AMENDMENT "A" to H.P. 1969, L.D. 1944

2 which he flees. (United States Code, Title 18, Section
3 1073).

4 The Legislature also intends to have the State seek
5 extradition of a person apprehended outside of the State who
6 has allegedly violated the Revised Statutes, Title 17-A,
7 section 303, subsection 1, the crime of criminal restraint
8 by parent.'

9 STATEMENT OF FACT

10 This amendment leaves the current language creating the
11 crime of criminal restraint by parent in place. That lan-
12 guage is the same as that in subsection 1, paragraph A on
13 page 1 of the bill. The amendment deletes paragraph B
14 beginning on line 30, page 1 of the bill. Paragraph B cre-
15 ated a new version of the crime of criminal restraint by
16 parent aimed at extending the states's criminal jurisdiction
17 to cover kidnapping of a child by a noncustodial parent
18 occurring outside of Maine, but in violation of a Maine cus-
19 tody order. While this is a serious violation affecting a
20 child in which the State has an interest, it seems unlikely
21 that Maine would be able to obtain extradition of the
22 noncustodial parent from a state in which most of the ac-
23 tions constituting the crime occurred.

24 By raising the classification of the crime of criminal
25 restraint by parent to Class C, a felony, the state crime
26 may become a federal crime. In this way, federal authori-
27 ties may become involved in apprehending a person who has
28 committed the crime of criminal restraint by parent.

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Reported by the Committee on Judiciary.
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