

**Table of Criminal Custodial Interference Statutes (current as of November 2004)**

<b>STATE</b> <b>STATUTE CITATION</b> <b>(STATUTE TITLE)</b>	<b>A) Intrastate Penalty</b> (Max. Sentence) <b>B) Interstate Penalty</b> (Max. Sentence)	<b>Available Defenses</b>	<b>Applicability of Statute</b>  Notes
<u>ALABAMA</u>  ALA. CODE § 13A-6-45 (INTERFERENCE WITH CUSTODY)	A/B) Class C Felony (10 yrs)	No crime if sole purpose is to assume lawful control of child.	<b>Not likely to be applicable to parents</b> (no crime if sole purpose is to assume lawful control of child.)
<u>ALASKA</u>  ALASKA STAT. § 11.41.320 (CUSTODIAL INTERFERENCE 1 <sup>ST</sup> DEGREE)  ALASKA STAT. § 11.41.330 (2 <sup>ND</sup> DEGREE)	A) Class A misdemeanor (1 Yr) B) Class C Felony	1) General Just Excuse Defense “includes illness of child” 2) See case law for DV exception.	<b>Ambiguous -- see case law</b> (“knowing that the person has no legal right to do so”)  Note: Withholding of visitation also violates this statute. (Alaska Stat. § 11.51.125)
<u>ARIZONA</u>  ARIZ. REV. STAT. ANN. § 13-1302 (CUSTODIAL INTERFERENCE)  ARIZ. REV. STAT. ANN. § 13-1305 (ACCESS INTERFERENCE)	Custodial Interference: A) Class 6 Felony (1 yr) B) Class 4 Felony  Access Interference: A) Class 2 Misdemeanor B) Class 5 Felony	Defense available IF: 1) Defendant has begun protection order or custody proceeding and the petition states defendant’s belief that child was at risk with other parent <b>AND</b> 2) defendant is child’s parent with “right of custody” <b>AND either</b> a) has a good faith and reasonable belief that the removal is necessary to protect child from imminent harm or b) is a victim of DV and has reasonable belief that child will be in immediate danger if left with other parent	<b>Applicable w/ or w/o custody/visitation order</b>  Note: Mother is legal custodian of child until paternity is established.
<u>ARKANSAS</u>  ARK. CODE ANN. § 5-26-502 (INTERFERENCE WITH CUSTODY)	A) Class A Misdemeanor (1 yr) B) Class D Felony (6 yrs)	Affirmative Defense: imminent harm to child	<b>Custody/Visitation Order Req. for Applicability</b>
<u>CALIFORNIA</u>  CAL. PENAL CODE § 278 (CHILD ABDUCTION)	A) 1 yr to 2, 3, or 4 yrs B) 1 yr to 2, 3, or 4 yrs  Aggravation for Int’l Abduction	Statute inapplicable for victim of DV who reasonably believes that child, if left with other parent, will suffer <u>physical or emotional harm</u> . Defendant must 1) make a custody petition pursuant to UCCJEA /PKPA, 2) make report to DA of child’s original state with contact info of child & parent detailing reasons for fleeing and 3) Inform law enforcement re: any changes in address <i>See</i> CAL. PENAL CODE § 278.7	<b>Applicable w/ or w/o custody/visitation order</b>  Notes: 1) See Uniform Parentage Act for standard in the absence of a custody/visitation order. 2) Statute language includes “maliciously.” <i>See</i> Cal. Penal Code § 278.

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<u>COLORADO</u>  COLO. REV. STAT. § 18-3-304 (VIOLATION OF CUSTODY ORDER)	A) Class 5 felony (Up to 3 yrs) B) Class 5 felony (Up to 3 yrs)  Int'1 – Class 4 felony	Affirmative Defense: Offender reasonably believed that his conduct was necessary to safeguard child	<b>Custody/Visitation Order Req. for Applicability</b>
<u>CONNECTICUT</u>  CONN. GEN. STAT. ANN. § 53a-97 (CUSTODIAL INTERFERENCE 1 <sup>ST</sup> DEGREE)  CONN. GEN. STAT. ANN. § 53a-98 (2 <sup>ND</sup> DEGREE)	A) Class A Misdemeanor (Up to 1 yr) B) Class D Felony (1-5 yrs)	NO STATUTORY DEFENSE	<b>Ambiguous -- see case law</b> (“knowing he has no right to do so”)  <i>See State v. Vakilzaden, 742 A. 2d 767, 771 (Conn. 1999)</i> (“the father and mother of every minor child are joint guardians”)
<u>DELAWARE</u>  DEL. CODE ANN. tit. 11, § 785 (INTERFERENCE WITH CUSTODY)	A) Class A Misdemeanor (1 Yr) B) Class G Felony (1-2 yrs Max)	NO STATUTORY DEFENSE	<b>Ambiguous – see case law</b> (“knowing the person has no legal right to so”)
<u>DISTRICT OF COLUMBIA</u>  D.C. CODE ANN. §§ 16-1021 to -1026 (PARENTAL KIDNAPPING)	A) Misdemeanor B) Felony Conviction, if abduction is for over 30 days (imprisonment for 1 yr)	Statute NOT violated if: 1) Action was taken by the parent fleeing from imminent physical harm to parent or 2) To protect child	<b>Applicable w/ or w/o custody/visitation order</b>
<u>FLORIDA</u>  FLA. STAT. ANN. § 787.03 (INTERFERENCE WITH CUSTODY)	A/B) Felony of 3 <sup>rd</sup> degree (5 yrs max.)	Defense that: 1) Defendant was victim of DV and 2) That act was required to protect child BUT MUST: 1) W/in 10 days report name, new address, and reason for flight, 2) Begin custody proceeding consistent with PKPA/UCCJA, and 3) Inform former state of child’s whereabouts.	<b>Applicable w/ or w/o custody/visitation order</b>  Statute uses: “malicious intent to deprive other parent” language  Higher penalties if contrary to court order.
<u>GEORGIA</u>  GA. CODE ANN. § 16-5-45 (INTERFERENCE WITH CUSTODY)	A/B) Misdemeanor (Felony upon 3 <sup>rd</sup> conviction)	NO STATUTORY DEFENSE	<b>Applicable w/ or w/o custody/visitation order</b>
<u>HAWAII</u>  HAW. REV. STAT. ANN. §§ 707-726 to -727 (CUSTODIAL INTERFERENCE 1 <sup>ST</sup> AND 2 <sup>ND</sup> DEGREE)	A/B) Class C Felony (5 yrs)	“Good cause” to believe act was for the protection of the child from immediate bodily injury	<b>Applicable w/ or w/o custody/visitation order</b>

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<u>IDAHO</u>  IDAHO CODE § 18-4506 (CHILD CUSTODY INTERFERENCE)	A) Misdemeanor (if child returned prior to arrest) B) Felony	Affirmative Defenses: 1) DV 2) Protection of Child	<b>Applicable w/ or w/o custody/visitation order</b>
<u>ILLINOIS</u>  720 ILL. COMP. STAT. ANN. 5/10-5 (CHILD ABDUCTION)	A/B) Class 4 felony (1 yr)	Statute not violated if child is taken to a DV shelter  Affirmative Defense: Fleeing DV	<b>Applicable w/ or w/o custody/visitation order</b> if parents are married.  Note: Mother presumed to have custody if unmarried and/or father is paying child support.
<u>INDIANA</u>  IND. CODE § 35-42-3-4 (INTERFERENCE WITH CUSTODY)	A) 1. Class C misdemeanor w/o court order, 2. Class B if in violation of a court order B) 1. Penalty unclear w/o court order, 2. Class D felony if in violation of a court order	NO STATUTORY DEFENSE	<b>Ambiguous -- see case law</b>  Note: Statute IS applicable w/ or w/o custody order as a Class C misdemeanor for concealment of the child
<u>IOWA</u>  IOWA CODE § 710.6 (VIOLATING CUSTODIAL ORDER)	A/B) Class D felony (5 yrs)  If violation of visitation order, serious misdemeanor	NO STATUTORY DEFENSE	<b>Custody/Visitation Order Req. for Applicability</b>
<u>KANSAS</u>  KAN. STAT. ANN. § 21-3422 (INTERFERENCE WITH PARENTAL CUSTODY) <i>SEE FACTORS FOR AGGRAVATION</i>	A/B) Class A misdemeanor	NO STATUTORY DEFENSE	<b>Applicable w/ or w/o custody/visitation order</b>  Note: Aggravated interference if child is concealed in unknown place: Severity Level 7 person felony
<u>KENTUCKY</u>  KY. REV. STAT. ANN. § 509.070 (CUSTODIAL INTERFERENCE)	A/B) Class D Felony (1-5 yrs)	NO STATUTORY DEFENSE Defense does exist if the child is returned voluntarily by the parent before an arrest or before issuance of warrant	<b>Ambiguous -- see case law</b> (“knowing he has no legal right to do so”)
<u>LOUISIANA</u>  LA. REV. STAT. ANN. § 14:45 (SIMPLE KIDNAPPING)  LA. REV. STAT. ANN. § 14:45.1 (INTERFERENCE WITH CUSTODY OF A CHILD)	A/B) Simple Kidnapping: (5 yrs)  A/B) Interference with custody: (6 mo)	Simple Kidnapping: NO STATUTORY DEFENSE  Interference w/ Custody Defense: Action necessary to protect child	<b>Custody/Visitation Order Req. for Applicability of both</b> (possible to be charged with both simple kidnapping and custodial interference)

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<u>MAINE</u>  ME. REV. STAT. ANN. tit. 17-A, § 303 (CRIMINAL RESTRAINT BY A PARENT)	A/B) Class C Crime (5 yrs)	NO STATUTORY DEFENSE	<b>Applicable w/ or w/o custody/visitation order</b> for interstate removal
<u>MARYLAND</u>  MD. CODE ANN., FAM. LAW §§ 9-304 & -305 (PROHIBITED ACTS W/IN AND W/OUT STATE)	A) Misdemeanor (30 day imprisonment) B) Felony, if abduction for more than 30 days (1 yr)  International Abduction is a Felony (3 yr)	May file a petition in court of equity stating: 1) Threat to child's health or safety and 2) Wish to modify custody order; Note: Defense may only be used if petition filed 96 hours of the abduction	<b>Custody/Visitation Order Req. for Applicability</b>
<u>MASSACHUSETTS</u>  MASS. GEN. LAWS ANN. ch. 265, § 26A (CUSTODIAL INTERFERENCE BY RELATIVES)	A) (1 yr) B) (5 yrs)	NO STATUTORY DEFENSE	<b>Ambiguous -- see case law</b> ("without lawful authority")
<u>MICHIGAN</u>  MICH. COMP. LAWS ANN. § 750.350a (TAKING OR RETAINING CHILD...)	A/B) Felony (1 yr and 1 day)	Complete defense if action is taken to protect child from imminent and actual threat of physical or mental harm, abuse, or neglect	<b>Custody/Visitation Order Req. for Applicability</b>
<u>MINNESOTA</u>  MINN. STAT. § 609.26 (DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS)	A/B) (Max of 2-4 yrs)	Affirmative Defenses 1) DV/Sexual Assault exception 2) Child protection exception	<b>Applicable w/ or w/o custody/visitation order</b> (Some ambiguity -- see case law)
<u>MISSISSIPPI</u>  MISS. CODE ANN. § 97-3-51 (INTERSTATE REMOVAL OF CHILD UNDER AGE FOURTEEN BY NONCUSTODIAL PARENT OR RELATIVE)	A) N/A B) Felony (3 yrs)	NO STATUTORY DEFENSE	<b>Custody/Visitation Order Req. for Applicability</b> (Interstate only)
<u>MISSOURI</u>  MO. REV. STAT § 565.150 (INTERFERENCE WITH CUSTODY)  MO. REV. STAT. § 565.153 (PARENTAL KIDNAPPING)	A/B) Class D Felony (10 yrs)	Absolute Defense: Fleeing a pattern or incident of domestic violence	Interference with Custody: <b>Ambiguous -- see case law</b> ("knowing that he has no legal right to do so")  Parental Kidnapping: <b>Custody/Visitation Order Req. for Applicability</b>

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<u>MONTANA</u>  MONT. CODE ANN. § 45-5-634 (PARENTING INTERFERENCE)  MONT. CODE ANN. §§ 45-5-632 & -633 (INTERFERENCE OR AGGRAV. INT. WITH PARENT-CHILD CONTACT)	A/B (10 yr max)	NO STATUTORY DEFENSE  Defense for Interference w/ Parent Child Contact: Reasonable Cause	Parenting interference: <b>Applicable w/ or w/o                      custody/visitation order</b>  Interference with parent-child contact: <b>Custody/Visitation Order Req. for Applicability</b>
<u>NEBRASKA</u>  NEB. REV. STAT. § 28-316 (VIOLATION OF CUSTODY)	A) Class II Misdemeanor, w/o custody order (6 months) B) Class IV Felony, w. custody order (5 yrs)	NO STATUTORY DEFENSE	<b>Applicable w/ or w/o custody/visitation order</b>
<u>NEVADA</u>  NEV. REV. STAT. 200.359 (DETENTION, CONCEALMENT OR REMOVAL OF CHILD FROM PERSON HAVING LAWFUL CUSTODY OR FROM JURISDICTION OF COURT)	A/B) Category D Felony (1-4 yrs)	Exceptions for : 1) DV or 2) Child welfare IF detention is reported to law enforcement or child welfare services within 24 hours after removal of the child or reasonable time thereafter	<b>Custody/Visitation Order Req. for Applicability</b>
<u>NEW HAMPSHIRE</u>  N.H. REV. STAT. ANN. § 633:4 (INTERFERENCE WITH CUSTODY.)	A) Misdemeanor B) Class B Felony (1-7 yrs)	Intrastate – “good faith protection of child”; must show petition documenting danger and requesting modification of custody within 72 hours of abduction  Interstate: NO STATUTORY DEFENSE	<b>Ambiguous -- see case law</b> (See RSA 458:17 for definition of “lawful physical custody”)
<u>NEW JERSEY</u>  N.J. STAT. ANN. § 2C: 13-4 (INTERFERENCE WITH CUSTODY)	A) 3 <sup>rd</sup> degree crime (No imprisonment) B) 2 <sup>nd</sup> degree crime if outside United States or if child is concealed for over 24 hours	Affirmative Defense: 1) Child welfare if a report is made within 24 after removal of the child in the new jurisdiction 2) Domestic violence if notice of child’s whereabouts is given to law enforcement OR if a new custody action is commenced	<b>Applicable w/ or w/o custody/visitation order</b> (Some ambiguity -- see case law)
<u>NEW MEXICO</u>  N.M. STAT. ANN. § 30-4-4 (CUSTODIAL INTERFERENCE)	A/B) 4 <sup>th</sup> degree felony (18 months)	NO STATUTORY DEFENSE	<b>Applicable w/ or w/o custody/visitation order</b>  Note: Language includes “maliciously”

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<u>NEW YORK</u>  N.Y. PENAL LAW § 135.50 (CUSTODIAL INTERFERENCE IN THE 1 <sup>ST</sup> DEGREE)  N.Y. PENAL LAW § 135.45 (CUSTODIAL INTERFERENCE IN THE 2D DEGREE)	A) Class A Misdemeanor B) Class E Felony (4 yrs)	Affirmative Defense: Emergency to protect child victim from abuse	<b>Ambiguous -- see case law</b>
<u>NORTH CAROLINA</u>  N.C. GEN. STAT. § 14-320.1 (TRANSPORTING CHILD OUTSIDE THE STATE WITH THE INTENT TO VIOLATE CUSTODY ORDER)	A) N/A B) Class I Felony (5 yrs)	NO STATUTORY DEFENSE	<b>Custody/Visitation Order Req. for Applicability</b>
<u>NORTH DAKOTA</u>  N.D. CENT. CODE § 12.1-18-05 (REMOVAL OF CHILD FROM STATE IN VIOLATION OF CUSTODY ORDER)	A) N/A B) Class C Felony	NO STATUTORY DEFENSE	<b>Custody/Visitation Order Req. for Applicability</b>
<u>OHIO</u>  OHIO REV. CODE ANN. § 2919.23 (INTERFERENCE WITH CUSTODY)	A) 1 <sup>st</sup> degree misdemeanor B) Felony – 5 <sup>th</sup> degree	Affirmative Defense: 1) Child's health/safety and 2) In good faith gave notice to law enforcement as to whereabouts of the child within reasonable amount of time	<b>Ambiguous -- see case law</b> ("knowing the person is without privilege to do so")
<u>OKLAHOMA</u>  OKLA. STAT. tit. 21, § 891 (CHILD STEALING)	A/B) Felony	NO STATUTORY DEFENSE	<b>Applicable w/ or w/o custody/visitation order</b> (Some ambiguity -- see case law)
<u>OREGON</u>  OR. REV. STAT. § 163.245 (CUSTODIAL INTERFERENCE IN THE 2D DEGREE)  OR. REV. STAT. § 163.257 (CUSTODIAL INTERFERENCE IN THE 1ST DEGREE)	A) Class C Felony (5 yrs) B) Class B Felony (10 yrs)	NO STATUTORY DEFENSE	<b>Ambiguous -- see case law</b> ("no legal right to do so")

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<u>PENNSYLVANIA</u>  18 PA. CONS. STAT. § 2904 (INTERFERENCE WITH CUSTODY OF CHILDREN)  18 PA. CONS. STAT. § 2909 (CONCEALMENT OF WHEREABOUTS OF A CHILD)	A/B) Felony 3 <sup>rd</sup> Degree (Both)	1) Child welfare 2) Defendant is parent and there is no court order of custody 3) For Concealment statute, there is a “reasonable response to DV” defense	Custodial interference Statute: <b>Ambiguous -- see case law</b> (“when he has no privilege to do so”)
<u>RHODE ISLAND</u>  R.I. GEN. LAWS § 11-26-1.1 (CHILDSNATCHING)  R.I. GEN. LAWS § 11-26-1.2 (ABDUCTION OF CHILD PRIOR TO COURT ORDER)	A/B) Felony (2 yr)	Child snatching: DV Affirmative Defense  Abduction: Statute Inapplicable if abduction is to protect child from imminent OR if fleeing DV	<b>Custody/Visitation Order Req. for Applicability</b>
<u>SOUTH CAROLINA</u>  S.C. CODE ANN. § 16-17-495 (CUSTODIAL INTERFERENCE)	A) N/A B) Felony (Max 5 yrs)	No STATUTORY DEFENSE	<b>Custody/Visitation Order Req. for Applicability</b>
<u>SOUTH DAKOTA</u>  S.D. CODIFIED LAWS § 22-19-9 (VIOLATION OF CUSTODY ORDER BY PARENT)  S.D. CODIFIED LAWS § 22-19-10 (REMOVAL OF CHILD FROM STATE)	A) Class 1 Misdemeanor (1 <sup>st</sup> offense, then Class 6 Felony) B) Class 5 Felony (5 yrs)	Defense: only if other lawful custodian fails to report abduction within 90 days	<b>Custody/Visitation Order Req. for Applicability</b>
<u>TENNESSEE</u>  TENN. CODE ANN. § 39-13-306 (CUSTODIAL INTERFERENCE)	A/B) Class E Felony (1- 6 yrs)	Defense if “clear and present danger” to child or child returned before arrest	<b>Custody/Visitation Order Req. for Applicability</b>  Note: Class A misdemeanor if child is voluntarily returned
<u>TEXAS</u>  TEX. PENAL CODE ANN. § 25.03 (INTERFERENCE WITH CHILD CUSTODY)	A/B) “State Jail” Felony	No STATUTORY DEFENSE	<b>Custody/Visitation Order Req. for Applicability</b>
<u>UTAH</u>  UTAH CODE ANN. § 76-5-303 (CUSTODIAL INTERFERENCE)	A) Class A Misdemeanor (1 yr) B) Felony 3 <sup>rd</sup> degree (5 yrs)	Defense: Good cause	<b>Custody/Visitation Order Req. for Applicability</b>

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<u>VERMONT</u>  VT. STAT. ANN. tit. 13, § 2451 (CUSTODIAL INTERFERENCE)	A/B) (Max 5 yrs)	Defense: Good faith act to protect child  Can show defense by filing modification of custody in VT court within 72 hours	<b>Ambiguous -- see case law</b> ("no legal right to do so")
<u>VIRGINIA</u>  VA. CODE ANN. § 18.2-47 (ABDUCTION AND KIDNAPPING DEFINED)  VA. CODE ANN. § 18.2-49.1 (VIOLATION OF COURT ORDER REGARDING CUSTODY AND VISITATION)	Kidnapping: A) Class 1 Misdemeanor + Contempt (Up to 12 mo), B) Class 6 Felony (5 yrs) + Contempt  Violation of Court Order of Custody: A) (Fine) B) (5 yrs)	Justification or excuse	Kidnapping: <b>Ambiguous -- see case law</b> ("withholds from another entitled to his charge")  Violation of Court Order of Custody: <b>Custody/Visitation Order Req. for Applicability</b>
<u>WASHINGTON</u>  WASH. REV. CODE §§ 9A.40.060 & 9A.40.070 (CUSTODIAL INTERFERENCE IN THE 1 <sup>ST</sup> AND 2 <sup>ND</sup> DEGREE)	A/B) Class C felony (5 yrs)	1) Protection of child 2) Flight from DV Note: Must show that Defendant sought assistance of police before fleeing	<b>Ambiguous -- see case law</b> ("intent to deny child access" for custody (1 <sup>st</sup> ) or visitation (2 <sup>nd</sup> ))
<u>WEST VIRGINIA</u>  W. VA. CODE § 61-2-14d (CONCEALMENT OR REMOVAL OF MINOR CHILD FROM CUSTODIAN OR FROM PERSON ENTITLED TO VISITATION)	A/B) Felony (1-5 yrs)	Welfare of child	<b>Ambiguous -- see case law</b> ("Intent to deprive another person of lawful custody")
<u>WISCONSIN</u>  WIS. STAT. § 948.31 (INTERFERENCE WITH CUSTODY BY PARENT OR OTHERS)	A/B) Class F Felony (2 yrs, 6 mo)	Affirmative Defense: Taken by parent fleeing DV/ SA	<b>Applicable w/ or w/o custody/visitation order</b>
<u>WYOMING</u>  WYO. STAT. ANN. § 6-2-204 (INTERFERENCE WITH CUSTODY)	A/B) (Not more than 2 years)	Affirmative Defense: Welfare of child in immediate danger	<b>Ambiguous -- see case law</b> ("having no privilege to do so")  Note: Concealment of child in confidential location a felony with maximum sentence of 5 yrs.