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Parental Kidnapping Statutes: Highlights

Compiled by the National Clearinghouse for the Defense of Battered Women
(Updated by the Battered Women’s Justice Project: September 2011)

This chart is intended only as a guide. Users should be certain to conduct independent research of a state’s criminal and evidentiary codes, case law, and legislative history.

Please note that this chart is not an exhaustive list of applicable offenses. There may be other related offenses that parents can be charged with depending on the jurisdiction. For example, some general kidnapping statutes may apply.

Whether a formal custody or visitation order is in place may affect the applicability of some parental kidnapping offenses. This chart does not specifically address this issue. Users should be certain to conduct independent research of a state’s particular law, including case law.

This chart does not list all potential defenses. Even within the specific statutes listed here, there may be additional defenses that are not included since evidence of domestic violence is unlikely to be relevant. Also, there may be general defenses from other sections of a state’s criminal code that could be applicable.

The term “affirmative defense” and its implications regarding burdens of proof vary by jurisdiction; please consult each state’s code and case law.

This chart attempts to track when the statutory language of an offense appears *on its face* to create an exception or exemption from prosecution. However, this is a matter of statutory interpretation, and similar language can have varied interpretations depending on the state or the court. Please consult case law (and, if none exists, legislative history) to help determine whether exemption-like language creates an actual exemption from prosecution (i.e., no crime is committed), or rather a defense to the crime at trial.

In the statute citations, the parenthetical references to the year indicate when, as of the date of our research, the statute was last updated by Lexis. These dates do not indicate the date the statute was enacted. We have included these dates in order to help distinguish any subsequent revisions or amendments and to facilitate future comparative research.

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Introduction

This chart is designed as a reference guide to each state’s parental kidnapping statute or statutes, with particular emphasis on whether these statutes contain language potentially relevant to battered persons who are charged, or are in danger of being charged, with parental kidnapping. It is important to note that states use various terms to define offenses that could be used when a parent flees with a child, including “parental abduction,” “child concealment,” and “custodial interference,” among others, and that some states have more than one offense that might be applicable in this type of situation.

The chart also notes which statutes include defenses for battered persons who flee domestic violence with their children. There is a separate category for defenses for individuals fleeing “harm to self.” Many – if not most – of these “harm to self” defenses could apply to a victim of battering. However, we separately classified the statutes that explicitly recognize and use the term “domestic violence” in order to be able to easily discern the statutes with specific domestic violence language. In addition, the chart notes whether a statute contains a defense for fleeing to protect a child from harm.

The chart also notes if a statute appears to include language regarding an exception or exemption from prosecution. For example, if a statute contains language such as “...a person who has not left the state does not commit an offense under this section if the child is returned to lawful custody before arraignment” the statute would be included in this category. Depending on case law, and how the language is interpreted, this type of exception or exemption-like language arguably implies that if certain conditions are met, a person should not be prosecuted for that offense.

If you see anything in this chart that needs to be updated or corrected, please let us know. You can call toll-free at 1.800.903.0111, ext. 3. Thank you.

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AL	Interference with Custody. ALA. CODE 1975 § 13A-6-45 <hr/> Interference with custody or violation of Chapter 3B Ala. Code 1975 § 30-3-156				Implied consent or relinquishment. ALA. CODE § 26-10A-9	Exception if sole purpose was to assume lawful control of child. ALA. CODE § 13A-6-45(b).		Felony. ALA. CODE § 13A-6-45(c).
AK	Custodial Interference in the second degree. ALASKA STAT. § 11.41.330 <hr/> Custodial Interference in the first degree. ALASKA STAT. § 11.41.320				Affirmative defense of necessity under AS 11.81.320 may apply.			Misdemeanor, ALASKA STAT. § 11.41.330, unless child removed from or kept outside of the state, then a class C felony. ALASKA STAT. § 11.41.320.

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AZ	Custodial Interference. AZ. REV. STAT. § 13-1302	Defense to prosecution under subsection A, para. 2 [custodial interference before the entry of a court order determining custodial rights], if defendant (1) has begun process to obtain a protection order or files petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that child was at risk if left with other parent and (2) parent has the right of custody, is a victim of domestic violence by the other parent, and has good faith and reasonable belief that child will be in immediate danger if left with other parent. AZ.	Defense to prosecution under subsection A, para. 2 [custodial interference before the entry of a court order determining custodial rights], if defendant (1) has begun process to obtain a protection order or files petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that child was at risk if left with other parent and (2) parent has the right of custody and good faith and reasonable belief that the taking is necessary to protect child from immediate danger. AZ. REV. STAT. § 13-1302C (1) & (2)(a).	Defense to prosecution under subsection A, para. 2 [custodial interference before the entry of a court order determining custodial rights], if defendant (1) has begun process to obtain a protection order or files petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that child was at risk if left with other parent and (2) parent has the right of custody and good faith and reasonable belief that the taking is necessary to protect child from immediate danger. AZ. REV. STAT. § 13-1302C (1) & (2)(a).				Felony, however, more serious penalty if child removed from state. AZ. REV. STAT. § 13-1302D(2) & (3). Reduced from felony to misdemeanor if child voluntarily returned without physical injury before arrest or warrant issued. AZ. REV. STAT. § 13-1302D(4).

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		REV. STAT. § 13-1302C (1) & (2)(b).						
AZ	Access Interference. AZ. REV. STAT. § 13-1305							Misdemeanor unless child is removed from state, then a felony. AZ. REV. STAT. § 13-1305(B).
AR	Interference with Court-Ordered Custody. ARK. CODE ANN. § 5-26-26-502							Misdemeanor if interference with “court-ordered custody” unless child is removed from state, then Class D felony. ARK. CODE ANN. § 5-26-502(a)(1)(B). Custodial interference, without reference to a court order, a Class C felony. ARK. CODE ANN. § 5-26-502(a)(2)(B).

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AR	Interference with Visitation. ARK. CODE ANN. § 5-26-501			Affirmative defense if defendant committed the act to protect the child from imminent physical harm, provided that defendant's belief and response were reasonable. ARK. CODE ANN. § 5-26-501(c)(1).	Affirmative defense if defendant had a reasonable belief that the person entitled to visitation would remove the child from the jurisdiction of the court. ARK. CODE ANN. § 5-26-501(c)(2).			Misdemeanor unless child removed from state, then a felony. ARK. CODE ANN. § 5-26-501(b)(1)(A) & (B).
CA	Child Abduction: Punishment. CAL. PENAL CODE § 278							Applies to persons "not having a right to custody." See definitions in § 277 and case law for clarification. See § 278.6 for list of aggravating and mitigating factors to be considered at sentencing (which include length of abduction and whether child was returned

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CA	Child Abduction: Additional Punishment. CAL. PENAL CODE § 278.5	Note Exceptions/ Exemptions.		Note Exceptions/ Exemptions.		Exception if person with a right to custody has good faith and reasonable belief that child will suffer immediate bodily injury or emotional harm CAL. PENAL CODE § 278.7(a). Exception if person with a right to custody, who has been a victim of domestic violence, has good faith and reasonable belief that child will suffer immediate bodily injury or emotional harm (emotional harm includes having a parent who commits domestic		prior to arrest or issuance of warrant for arrest). See § 278.6 for list of aggravating and mitigating factors to be considered at sentencing (which include length of abduction and whether child was returned prior to arrest or issuance of warrant for arrest).

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						violence against the parent taking child). CAL. PENAL CODE § 278.7(b). Both exceptions require taking parent to make a report to district attorney's office and commence a custody proceeding within a reasonable time. CAL. PENAL CODE § 278.7(c) & (d).		
CO	Violation of Custody Order or Order Relating to Parental Responsibilities. COLO. REV. STAT. § 18-3-304			Affirmative defense if offender reasonably believed conduct was necessary to preserve the child from danger to welfare. COLO. REV. STAT. § 18-3-304(3).	Affirmative defense if child older than 14 was taken at own instigation for no criminal purpose. COLO. REV. STAT. § 18-3-304(3).			Felony; higher level felony if child removed from country. COLO. REV. STAT. § 18-3-304(1), (2) & (2.5).

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CT	Custodial Interference in the second degree. CONN. GEN. STAT. § 53a-98 Custodial Interference in the first degree. CONN. GEN. STAT. § 53a-97 (2)							Misdemeanor, CONN. GEN. STAT. § 53a-98, unless child exposed to a health or safety risk, or removed from state, then a felony. CONN. GEN. STAT. § 53a-97.
DE	Interference with Custody. 11 DEL. CODE ANN. § 785							Misdemeanor unless child is removed from state, then a felony. DEL. CODE ANN. § 785(2).
DC	Parental Kidnapping: Prohibited Acts. D.C. CODE ANN. § 16-1022		Note Exceptions/ Exemptions.	Complete defense to prosecution if, within 5 business days of act, person files petition for custody stating that failure to flee would have resulted in “clear and present danger to health, safety, or welfare of child” and court determines		Exception if parent fleeing to protect child or him/herself from “imminent physical harm.” D.C. CODE ANN. § 16-1023(a)(1) & (2).		Misdemeanor, unless child removed from District, then a felony. Felony reduced to misdemeanor if child released to safe place prior to arrest. Increased penalty if out of District more than 30 days. D.C. CODE

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				that to be true. D.C. CODE ANN. 16-1023(b) & (c). Also note Exceptions.				ANN. § 16-1024(a) & (b).
FL	Interference with Custody. FLA. STAT. § 787.03	Defense if defendant was victim of domestic violence or had reasonable cause to believe that his or her action was necessary to protect himself or herself from an act of domestic violence. FLA. STAT. § 787.03(4)(b).		Defense if defendant reasonably believed action was necessary to preserve the child from danger to his or her welfare. FLA. STAT. § 787.03(4)(a).	Defense if child was taken away at his or her own instigation without enticement and without purpose to commit a criminal offense with or against the minor or incompetent person, and the defendant establishes that it was reasonable to rely on the instigating acts of the minor or incompetent person. FLA. STAT. § 787.03(4)(c).	Exemption if spouse who is domestic violence victim or spouse who has reasonable cause to believe he or she is about to become a victim of any act of domestic violence, or believes that action is necessary to preserve the child's welfare, seeks shelter from such acts, or possible acts, and takes child. Must make report to sheriff or state attorney within 10 days and file for custody within reasonable time. FLA. STAT. § 787.03(6)(a) & (b).		Felony of the third degree. FLA. STAT. § 787.03(1) & (2) (2002). Parent can be charged in the absence of a court order. FLA. STAT. § 787.03(2).

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FL	Removing Minors from State or Concealing Minors Contrary to State Agency Order or Court Order. FLA. STAT. § 787.04			Defense if person reasonably believed action was necessary to protect minor from child abuse. FLA. STAT. § 787.04(5).				Felony of the third degree. FLA. STAT. § 787.04(6).
GA	Interference with Custody. GA. CODE ANN. § 16-5-45							Misdemeanor, unless offense committed more than twice, or child is removed from state, then a felony. GA. CODE ANN. § 16-5-45(b)(2) & (c)(3).
HI	Custodial Interference in the second degree. HAW. REV. STAT. § 707-727							Misdemeanor unless child removed from state, then a class C felony. HAW. REV. STAT. § 707-727(2).
HI	Custodial Interference in the first degree. HAW. REV. STAT. § 707-726			Affirmative defense if person taking child had "good cause" (defined as protecting child from immediate			Affirmative defense for good cause, defined as "a good faith and reasonable belief that the taking... is necessary to	This class C felony offense committed if court order violated and child removed from state; or,

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				<p>bodily injury). Defense requires the filing of report with family court containing child's whereabouts and circumstances of the event, and a filing for custody as soon "as practicable." HAW. REV. STAT. § 707-726(2). The identity and address of person filing report shall remain confidential unless "released pursuant to a court order." HAW. REV. STAT. § 707-726(3).</p>			<p>protect minor from immediate bodily injury." HAW. REV. STAT. § 707-726(2).</p>	<p>minor younger than 11 taken from lawful custodian; or, in absence of court order, child removed from state. HAW. REV. STAT. § 707-726(1)(a), (b) & (c).</p>
ID	Child Custody Interference. IDAHO CODE § 18-4506		Affirmative defense if parent fleeing from imminent physical harm. IDAHO CODE § 18-4506(2)(b).	Affirmative defense if action was taken to protect child from imminent physical harm. IDAHO CODE § 18-4506(2)(a).	Affirmative defense if child returned within 24 hours after expiration of authorized visitation. IDAHO CODE § 18-4506(2)(d).			Misdemeanor if child is not taken out of state and voluntarily returned unharmed prior to arrest; otherwise a felony. IDAHO CODE § 18-

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IL	Child Abduction. ILL. COMP. STAT. 720 § 5/10-5	Affirmative defense if person was fleeing an incidence or pattern of domestic violence. ILL. COMP. STAT. 720§ 5/10-5(c)(3).				No violation of § (b)(6) (involving married, or formerly married, parent who conceals child for 15 days in absence of a custody order) if parent was fleeing domestic violence with child to a domestic violence shelter. 720 ILL. COMP. STAT. § 5/10-5(b)(6).		4506(3). Felony, in or out of state. 720 ILL. COMP. STAT. § 5/10-5(d).
IL	Unlawful Visitation Interference. ILL. COMP. STAT. 720 § 5/10-5.5			Affirmative defense if action taken to protect child from imminent harm when belief and conduct were reasonable. ILL. COMP. STAT. 720 § 5/10-5.5(g)(1).				Petty offense unless two prior convictions under this section, then misdemeanor. ILL. COMP. STAT. 720 § 5/10-5.5(c).

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IN	Interference with Custody. IND. CODE ANN. § 35-42-3-4		It is a defense to prosecution under this section that the accused person was threatened. IND. CODE ANN. § 35-42-3-4(g)(1).	It is a defense to prosecution under this section that the accused person reasonably believed the child was threatened. IND. CODE ANN. § 35-42-3-4(g)(2).				Class C misdemeanor unless the taking, concealment, or detention is in violation of a court order, in which case it is a class B misdemeanor. IND. CODE ANN. § 35-42-3-4 (b). If the child is removed from state, then a felony. IND. CODE ANN. § 35-42-3-4(a) & (b). Mitigating circumstance if child returned in accordance with custody order within seven days after removal. IND. CODE ANN. § 35-42-3-4(c).
IA	Violating Custodial Order. IOWA CODE § 710.6							Violation of lawful custody, felony; violation of visitation rights,

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KS	Interference with Parental Custody. K.S.A. § 21-5409 (a)							<p>misdemeanor. IOWA CODE § 710.6.</p> <p>Severity level 10, person felony unless the defendant is the parent of a child entitled to joint custody (on basis of court order or the absence of one), in which case it is a class A person misdemeanor. K.S.A. § 21-3422(c)(1).</p>
KS	Aggravated Interference with Parental Custody. K.S.A. § 21-5409(b)							<p>Severity level 7, person felony. K.S.A. § 21-5409(c)(2).</p>
KY	Custodial Interference. KY. REV. STAT. § 509.070				<p>Defense if person taken was voluntarily returned before arrest or issuance of a warrant. KY. REV. STAT. § 509.070(2).</p>			<p>Class D felony unless defendant voluntarily returns child. KY. REV. STAT. § 509.070(3).</p>

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LA	Simple Kidnapping. L.A. REV. STAT. § 14:45							Applicable to a parent when a court order exists and parent removes child from state. L.A. REV. STAT. § 14:45(A)(4). Penalty is fine or not more than five years imprisonment, or both. L.A. REV. STAT. § 14:45(B).
LA	Interference with the Custody of a Child. L.A. REV. STAT. § 14:45.1			Affirmative defense if the offender reasonably believed his actions were necessary to protect the welfare of child. L.A. REV. STAT. § 14:45.1(A).				Applicable when court order exists. L.A. REV. STAT. § 14:45.1(A) Penalty is fine or not more than six months imprisonment, or both. L.A. REV. STAT. § 14:45.1(B).
ME	Criminal Restraint by Parent. ME. REV. STAT. ANN. 17-A § 303							Class Crime ME. REV. STAT. ANN. 17-A § 303 Repealed.
MD	Child Abduction. MD. CODE			Defense to § 9-304 & § 9-305 if,				Misdemeanor, unless child

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	FAMILY LAW § 9-304 Child Abduction - Outside of this State. MD. CODE FAMILY LAW § 9-305			within 96 hours of the act, individual filed a petition stating failure to do the act would have resulted in clear and present danger to child, and the court finds that to be true. MD. FAM. LAW CODE ANN. § 9-306.				removed from state, then a felony (felony if child gone more than 30 days or child removed from country). MD. FAM. LAW CODE ANN. § 9-307.
MA	Kidnapping of minor or incompetent by relative; punishment M.G.L.A. 265 § 26A							Fine or imprisonment up to one year, or both, unless child is removed from state, or exposed to safety risk, then fine or imprisonment up to five years, or both. MASS. ANN. LAWS § 26A. Offense does not apply in the absence of a custody order. See <i>Commonwealth v. Beals</i> , 405 Mass. 550 (1989).

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MI	Taking or Retaining Child by Adoptive or Natural Parent. MICH. COMP. LAWS § 750.350a			Complete defense if parent proves actions were taken to protect child from an immediate and actual threat of physical or mental harm, abuse, or neglect. MICH. COMP. LAWS § 750.350a(5).				Felony. MICH. COMP. LAWS § 750.350a (2). Provides for deferred adjudication for first time offenders. MICH. COMP. LAWS § 750.350a(4). Civil custody statute provides “[a] custodial parent’s temporary residence with the child in a domestic violence shelter shall not be construed as evidence of the custodial parent’s intent to retain or conceal the child from the other parent” when evaluating factors in a custody determination. MICH. COMP. LAWS § 722.27a(6)(h).

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MN	Depriving Another of Custodial or Parental Rights. MINN. STAT. § 609.26		Affirmative defense if person reasonably believed the action taken was necessary to protect him/herself from physical or sexual assault. MINN. STAT. § 609.26 subd. 2(2).	Affirmative defense if person reasonably believed the action taken was necessary to protect child from physical or sexual assault or substantial emotional harm. MINN. STAT. § 609.26 subd. 2(1).		Dismissal of charges under this section if (a) person voluntarily returns child within 48 hours (exception if done only as result of location by law enforcement) or (b)(1) the person and child have not left the state and (2) within seven days of action (i) a motion or proceeding under chapter 518, 518B, 518C, or 518D is commenced by the person, or (ii) the attorney representing the person has consented to service of process by the party whose rights are being deprived, for any motion or		Felony punishable by imprisonment for not more than 2 years or payment of a fine of not more than \$4,000 or both. Higher penalty if the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking; abused or neglected the child during the concealment, detention, or removal; inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful

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MS	Interstate Removal of Child Under Age Fourteen by Noncustodial Parent or Relative. MISS. CODE ANN. § 97-3-51					action pursuant to any of those same chapters (relating to divorce, custody, support and protection from abuse). MINN. STAT. § 609.26 subdiv. 1 & 5.		custodian to discontinue criminal prosecution; demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or had previously been convicted under this section or a similar statute of another jurisdiction.
MO	Interference with Custody. MO. REV. STAT. §							Felony punishable by a fine of \$2,000, imprisonment for not more than 3 years, or both. MISS. CODE ANN. § 97-3-51(2). Class A misdemeanor unless child is

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	565.150							removed from state, then a class D felony. MO. REV. STAT. § 565.150(2).
MO	Parental Kidnapping. MO. REV. STAT. § 565.153	Absolute defense if fleeing incident or pattern of domestic violence. MO. REV. STAT. § 565.160(3).					Offense if action taken “without good cause.” MO. REV. STAT. § 565.153(1).	Class D felony, unless committed by detaining or concealing the whereabouts of the child for no less than 60 days but not longer than 119 days, in which case the crime is a class C felony. If the child was detained or concealed not less than 120 days, the crime is a class B felony. MO. REV. STAT. § 565.153(2).

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MO	Child Abduction. MO. REV. STAT. § 565.156	Absolute defense if fleeing incident or pattern of domestic violence. MO. REV. STAT. § 565.160(3).					Offense, under one subsection, if having legal custody pursuant to court order, person removes, detains, or conceals child, with intent to deprive custody rights of another, “without good cause.” MO. REV. STAT. § 565.156(5).	Class D felony. MO. REV. STAT. § 565.156(2).
MT	Custodial Interference. MONT. CODE ANN. § 45-5-304					Exception if first offense and person voluntarily returns child before arraignment (if in state) or arrest (if out of state). MONT. CODE ANN. § 45-5-304(3). See <i>State v. Lance</i> , 201 Mont. 30 (1982), <i>Contway v. Camp</i> , 236 Mont. 169 (1989), for further		Imprisonment not to exceed 10 years, or fine not to exceed \$50,000, or both. MONT. CODE ANN. § 45-5-304(2).

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MT	Interference with Parent-Child Contact. MONT. CODE ANN. § 45-5-631				Among others, defenses include if person acted with “reasonable cause.” MONT. CODE ANN. § 45-5-633(1)(c). Also a defense if first offense and child is returned before arrest. MONT. CODE ANN. § 45-5-633(2).	interpretation of § 45-5-304(3).	Note Defense: Other	Imprisonment not to exceed 5 days, or fine not to exceed \$500, or both. MONT. CODE ANN. § 45-5-631(2).
MT	Aggravated Interference with Parent-Child Contact. MONT. CODE ANN. § 45-5-632				Among others, defenses include if person acted with “reasonable cause.” MONT. CODE ANN. § 45-5-633(1)(c). Also a defense if first offense		Note Defense: Other	Imprisonment not to exceed 18 months, or fine not to exceed \$1,000, or both. MONT. CODE ANN. § 45-5-632(2).

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MT	Parenting Interference. MONT. CODE ANN. § 45-5-634				and child is returned before arrest MONT. CODE ANN. § 45-5-633(2).	Exception if first offense and person voluntarily returns child before arraignment (if in state) or arrest (if out of state). MONT. CODE ANN. § 45-5-634(3).		Imprisonment not to exceed 10 years, or fine not to exceed \$50,000, or both. MONT. CODE ANN. § 45-5-634(2).
NE	Violation of Custody. NEB. REV. STAT. § 28-316							Class II misdemeanor unless the violation of custody is in contravention of court order with the intent to deprive lawful custodian of custody, then a class IV felony. NEB. REV. STAT. § 28-316(3).
NV	Detention, Concealment or		Note Exceptions/	Note Exceptions/ Exemptions.		Does not apply if person acted		Category D felony, however

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	Removal of Child from Person Having Lawful Custody or from Jurisdiction of Court. NEV. REV. STAT. ANN. § 200.359		Exemptions.			to protect child from imminent danger of abuse or neglect, or to protect him/herself from imminent physical harm, and reported the action to law enforcement or child welfare agency within 24 hours or as soon as circumstances allowed. NEV. REV. STAT. ANN. § 200.359(8).		prosecutor may recommend misdemeanor sentence if (1) first offense and no substantial harm to child or (2) the “interests of justice” require it. NEV. REV. STAT. ANN. § 200.359(6). Before an arrest warrant may be issued, the court must find that there is cause to believe that the entry of a court order in a civil proceeding (brought pursuant to the custody statutes) will not be effective to enforce the parties’ rights and would not be in the best interests of the child. NEV. REV. STAT. ANN. § 200.359(4)(b).

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NH	Interference with Custody. N.H. REV. STAT. ANN. § 633:4			Affirmative defense if person was “acting in good faith to protect the child from real and imminent physical danger.” Evidence of good faith shall include (but not be limited to) the filing of a petition within 72 hours of termination of visitation rights, documenting the danger and seeking to modify the custody decree. Defense not available if child removed from state. N.H. REV. STAT. ANN. § 633:4 III & IV.				Misdemeanor unless child removed from state, then a class B felony. N.H. REV. STAT. ANN. § 633:4(I) & (II).
NJ	Kidnapping. N.J. REV. STAT. § 2C:13-1	Note: While terminology “domestic violence” not expressly used, the statute’s affirmative defense specifically refers to one parent	Affirmative defense to subsection b(4) [holding for purpose of permanently depriving a parent or lawful custodian of custody] if	Affirmative defense to subsection b(4) [holding for purpose of permanently depriving a parent or lawful custodian of custody] which				A crime of the first degree unless actor releases victim unharmed and in safe place prior to apprehension, then crime of second degree.

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		fleeing harm from the other parent. N.J. REV. STAT. § 2C:13-1(f).	parent having the right of custody reasonably believed he was fleeing from imminent physical danger from other parent, provided that the parent having custody, as soon as reasonably practicable (1) gives notice of victim's location to police or prosecutor in county where victim resided, or Dept. of Human Services or (2) commences an action affecting custody in an appropriate court. N.J. REV. STAT. § 2C:13-1(f).	must be proven by clear and convincing evidence, if the actor reasonably believed the action was necessary to preserve the victim from imminent danger. However, defense unavailable under this section if actor does not, within 24 hours, give notice of victim's location to the police or prosecutor in county where victim resided or the Dept. of Human Services. N.J. REV. STAT. § 2C:13-1(e)(1).				N.J. REV. STAT. § 2C:13-1(c).
N.J.	Interference with Custody. N.J. REV. STAT. § 2C:13-4	Note: While terminology "domestic violence" not	Affirmative defense if parent having the right of	Affirmative defense, which must be proven by clear and				Crime of third degree unless child taken for more than 24

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		expressly used, the statute's affirmative defense specifically refers to one parent fleeing harm from the other parent. N.J. REV. STAT. § 2C:13-4(d).	custody reasonably believed he was fleeing from imminent physical danger from other parent, provided that the parent having custody, as soon as reasonably practicable (1) gives notice of victim's location to police or prosecutor in county where victim resided, or Dept. of Human Services or (2) commences an action affecting custody in an appropriate court. N.J. REV. STAT. § 2C:13-4(d).	convincing evidence, if the actor reasonably believed the action was necessary to preserve the victim from imminent danger. However, defense unavailable under this section if actor does not, within 24 hours, give notice of victim's location to the police or prosecutor in county where victim resided or the Dept. of Human Services. N.J. REV. STAT. § 2C:13-4(c)(1).				hours, or removed from country, then a crime of the second degree. N.J. REV. STAT. § 2C:13-4(a)(4). In imposing sentence the court shall consider (a) whether the person returned the child voluntarily; and (b) the length of time the child was concealed or detained. N.J. REV. STAT. § 2C:13-4(f)(2).
NM	Custodial Interference. N.M. STAT. ANN. § 30-4-4(B) Unlawful					Felony charge may be dismissed if the child is returned within fourteen days after	Offense if action taken "without good cause." N.M. STAT. ANN. § 30-4-4(B). Charge may be dismissed if	Fourth degree felony. N.M. STAT. ANN. § 30-4-4(B). Charge may be dismissed if

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	Interference with Custody. N.M. STAT. ANN. § 30-4-4(C).					taking, detaining, or failing to return the child. N.M. STAT. § 30-4-4(G).		child voluntarily returned within 14 days of taking, detaining or failing to return child. N.M. STAT. ANN. § 30-4-4(G).
NY	Custodial Interference in the second degree. N.Y. PENAL LAW § 135.45 Custodial Interference in the first degree. N.Y. PENAL LAW § 135.50			Affirmative defense to custodial interference in the first degree [specifically, to removing child from the state], if the child was abandoned or if the taking was “necessary in an emergency” to protect the child from being subjected to or threatened with mistreatment or abuse. N.Y. PENAL LAW § 135.50.				Class A misdemeanor, N.Y. PENAL LAW § 135.45, unless person intends to permanently remove child from state and does so, or removal exposes child to health or safety risk, then a class E felony. N.Y. PENAL LAW § 135.50.
NC	Abduction of Children. N.C. GEN. STAT. § 14-41				No defense specifically defined, however describes the			Class F felony. N.C. GEN. STAT. § 14-41(a).

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N.C.	Transporting Child Outside the State with Intent to Violate Custody Order. N.C. GEN. STAT. § 14-320.1				crime as a taking “without legal justification or defense.” N.C. GEN. STAT. § 14-41(a).			Class I felony. Keeping child outside state in excess of 72 hours is evidence of intent to violate order. N.C. GEN. STAT. § 14-320.1.
N.D.	Removal of Child from State in Violation of Custody Decree. N.D. CENT. CODE § 12.1-18-05							Class C felony. Detaining child outside state for more than 72 hours is evidence of intent to violate the custody decree. N.D. CENT. CODE § 12.1-18-05.
OH	Interference with Custody. OHIO REV. CODE ANN. § 2919.23			Affirmative defense to “enticing or taking” a child if necessary to preserve child’s				Misdemeanor in the third degree. If a person removes the child from the state or if it is

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				health or safety. Affirmative defense to “keeping or harboring” a child if notice is given to law enforcement or judicial authorities within a reasonable time after child came under the actor’s shelter, protection, or influence. OHIO REV. CODE ANN. § 2919.23(C).				the second offense, it is a felony of the fifth degree. If child suffers physical harm, then a felony of the fourth degree. OHIO REV. CODE ANN. § 2919.23(D)(2).
OK	Violation of Child Custody Order. OKLA. STAT. § 567A			Affirmative defense if offender reasonably believed that the act was necessary to preserve the child’s physical, mental, or emotional welfare and the offender notifies law enforcement where child’s custodian resides. OKLA. STAT. § 567A(B).				Felony. OKLA. STAT. § 567A(A).
OK	Child Stealing.							Felony. OKLA.

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	21 OKLA. STAT. § 891							STAT. § 891.
OR	Custodial Interference in the second degree. OR. REV. STAT. § 163.245 Custodial Interference in the first degree. OR. REV. STAT. § 163.257							Both are felonies; class B for first degree (when child removed from state or exposed to substantial risk of illness or physical injury), class C for second degree. OR. REV. STAT. §§ 163.245(3); 163.257(3).
PA	Concealment of Whereabouts of a Child. 18 PA. C.S.A. § 2909	Note Exceptions/ Exemptions.		Note Exceptions/ Exemptions.		Possible exemption if action “is a reasonable response to domestic violence or child abuse.” 18 PA. CONS. STAT. § 2909(a).		Felony of the third degree. 18 PA. CONS. STAT. § 2909(a).
PA	Interference with Custody of Children. 18 PA. C.S.A. § 2904			Defense if actor believed action was necessary to preserve the child from danger to its welfare, 18 PA. CONS. STAT. § 2904(b)(1).	Defense if the child is no younger than 14, and was taken away at its own instigation without		Offense may be reduced from felony to misdemeanor if “actor acted with good cause for a period of time not in excess of 24 hours,” and	Third degree felony unless “actor acted with good cause for a period of time not in excess of 24 hours,” and

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					enticement and without purpose to commit a criminal offense with or against the child. PA .C.S.A. § 2904 (b)(2). Defense if the actor is the child's parent, guardian, or other lawful custodian and is not acting contrary to a court order, 18 PA. CONS. STAT. § 2904(b)(3).		hours,” and child is the subject of a valid custody order, the actor has been given partial custody or visitation rights, is a resident of the Commonwealth and does not remove the child from the Commonwealth. 18 PA. CONS. STAT. § 2904(c)(2).	child is the subject of a valid custody order, the actor has been given partial custody or visitation rights, is a resident of the Commonwealth and does not remove the child from the Commonwealth then a misdemeanor of the second degree. 18 PA. CONS. STAT. § 2904(c)(2).

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R.I.	Childsnatching. R.I. GEN. LAWS § 11-26-1.1	Affirmative defense if fleeing an incidence or pattern of domestic violence. R.I. GEN. LAWS § 11-26-1.1(b)(3).						Felony. R.I. GEN. LAWS § 11-26-1.1(a).
R.I.	Abduction of Child Prior to Court Order. R.I. GEN. LAWS § 11-26-1.2		Note Exceptions/Exemptions.	Note Exceptions/Exemptions.		No person violates this section if the action was taken to protect child from imminent physical harm or if parent was fleeing imminent physical harm to him or herself. R.I. GEN. LAWS § 11-26-1.2(b)(1) & (2).		Felony. R.I. GEN. LAWS § 11-26-1.2(a). Offense occurs if parent flees with child for period more than 15 days after notice regarding a family action is served on them but before temporary or final custody order entered.
SC	Custodial Interference. S.C. CODE ANN. § 16-17-495							Felony unless child returned to legal custodian or jurisdiction of the custody court where petition was filed within three days of violation, then a misdemeanor.

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SD	Taking, Enticing Away or Keeping of Unmarried Minor Child by Parent. S.D. CODIFIED LAWS § 22-19-9				Complete defense if lawful custodian or person having visitation rights failed to report the violation to law enforcement within 90 days of the offense. S.D. CODIFIED LAWS § 22-19-11.			Misdemeanor except if child removed from state (see § 22-19-10) or if second offense; then felony. S.D. CODIFIED LAWS § 22-19-9.
S.D.	Removal of Child from State. S.D. CODIFIED LAWS § 22-19-10				Complete defense if lawful custodian or person having visitation rights failed to report the violation to law enforcement within 90 days of the offense. S.D. CODIFIED			Class 5 felony. S.D. CODIFIED LAWS § 22-19-10.

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TN	Custodial Interference. TENN. CODE ANN. § 39-13-306			2004 Amendment: Defense if there was reasonable belief at time child was removed that failure to remove would have resulted in clear and present danger to the health, safety, or welfare of the child. TENN. CODE ANN. § 39-13-306(c)(1).	LAWS § 22-19-11. Defense if child is returned voluntarily and before arrest or issuance of a warrant for arrest. TENN. CODE ANN. § 39-13-306(c)(2).			Class E felony, but reduced to class A misdemeanor if child returned voluntarily by defendant (after arrest or issuance of warrant). TENN. CODE ANN. § 39-13-306(e) (see statutory comments).
TX	Interference with Child Custody. TEX PENAL CODE ANN. § 25.03				Defense to section (a)(2) [taking child out of jurisdiction after a divorce or civil action initiated regarding custody, with intent to deprive court of authority over child], if child returned to jurisdiction within 3 days			Felony. TEX PENAL CODE ANN. § 25.03(d).

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TX	Enticing a Child. TEX PENAL CODE ANN. § 25.04				after offense committed. TEX PENAL CODE ANN. § 25.03(c).			Class B misdemeanor unless actor intended to commit a felony against child, then a felony of the third degree. TEX PENAL CODE ANN. § 25.04(b).
UT	Custodial Interference. UTAH CODE ANN. § 76-5-303		Defense if actor was acting under a reasonable belief that the conduct was necessary "to protect any person from imminent bodily injury or death." UTAH CODE ANN. § 76-5-305(1)(a).	Defense if actor was acting under a reasonable belief that the conduct was necessary "to protect any person from imminent bodily injury or death." UTAH CODE ANN. § 76-5-305(1)(a).			Offense if action taken "without good cause." UTAH CODE ANN. § 76-5-303(1) & (2).	Class B misdemeanor unless the person has been convicted of custodial interference at least twice in the 2-year period immediately preceding the date on which this incidence of custodial interference occurred, then a class A misdemeanor. UTAH CODE

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VT	Custodial Interference. 13 V.S.A. § 2451			Defense if person was acting in “good faith to protect the child from real and imminent physical danger.” Evidence of good faith “shall include, but is not limited to, the filing of a non-frivolous petition documenting that danger and seeking to modify the custodial decree...” Petition must be filed within 72 hours of the termination of visitation rights. Defense not available if person left state with child. VT. STAT.				ANN. § 76-5-303(3)-(4). If child is removed from state, then it is a felony of the third degree. UTAH CODE ANN. § 76-5-303(5). Imprisonment up to five years, or fine of up to \$5,000, or both. VT. STAT. ANN. § 2451(b).

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VA	Violation of Court Order Regarding Custody and Visitation. VA. CODE ANN. § 18.2-49.1			ANN. § 2451(c).				Class 3 misdemeanor unless it is the second violation in 12 months, in which case it is a class 2 misdemeanor, or the third violation in the past 24 months, in which case it is a class 1 misdemeanor. VA. CODE ANN. § 18.2-49.1(B). If the child is removed from the state, then it is a class 6 felony. VA. CODE ANN. § 18.2-49.1(A).
VA	Abduction and Kidnapping Defined; Punishment. VA. CODE ANN. § 18.2-47				No defense specifically defined; however, describes the crime as a taking “without legal justification or excuse.”			Class 1 misdemeanor if abduction is by parent, and punishable as contempt of court in any pending proceeding, unless, under

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WA	Custodial Interference in the second degree. WASH. REV. CODE § 9A.40.070 Custodial Interference in the first degree. WASH. REV. CODE § 9A.40.060	Complete defense to both first and second degree if defendant's purpose was to protect him/herself from imminent physical harm, that the belief in that harm was reasonable, and that defendant sought the assistance of police, sheriff, protective agencies, or the court in any state before committing the act or within a reasonable time thereafter. WASH. REV. CODE § 9A.40.080(2)(a)	Complete defense to both first and second degree if defendant's purpose was to protect child from imminent physical harm, that the belief in that harm was reasonable, and that defendant sought the assistance of police, sheriff, protective agencies, or the court in any state before committing the act or within a reasonable time thereafter. WASH. REV. CODE § 9A.40.080(2)(a).	Various other defenses, such as complainant had failed to exercise custodial rights for protracted time. See WASH. REV. CODE § 9A.40.080(2)(b).	VA. CODE ANN. § 18.2-47A.			same circumstances, child removed from state, then a class 6 felony. VA. CODE ANN. § 18.2-47B. Second degree: gross misdemeanor for first conviction; class C felony for subsequent convictions. WASH. REV. CODE § 9A.40.070(4). First degree (removal from state, exposure to risk of injury or illness, or intention to hold for protracted period): Class C felony. WASH. REV. CODE § 9A.40.060(4). Custodial interference in second degree includes, among other things, a parent's failure

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WV	Concealment or Removal of Minor Child from Custodian or from Person Entitled to Visitation. W. VA. CODE § 61-2-14d			Defense if reasonable belief that action was necessary to preserve the welfare of the minor child. W. VA. CODE § 61-2-14d(c).		Statute notes that “the mere failure to return a minor child at the expiration of any lawful custody or visitation period, without the intent to deprive another person of lawful custody or visitation rights shall not constitute an offense under this section.” W. VA. CODE § 61-2-14d(c).		to comply with residential provisions of a court-ordered parenting plan. WASH. REV. CODE § 9A.40.070(2). (b) & (c). Felony in or out of state; however, statute affords court discretion to impose lesser (county) sentence so long as child not removed from state. W. VA. CODE § 61-2-14d(a) & (b).
WI	Interference with Custody by Parent or Others. WIS. STAT. § 948.31		Affirmative defense if parent flees a situation that parent reasonably believes is	Affirmative defense if action taken by parent to protect child when parent reasonably believes there is threat of physical				Varying degrees of felony. Wis. STAT. § 948.31(1)(b), (2) & (3).

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WY	Interference with Custody. WYO. STAT. ANN. § 6-2-204		threat of physical harm or sexual assault to himself or herself. WIS. STAT. § 948.31(4)(a)(2).	Affirmative defense if the action was necessary to preserve the child from immediate danger to his/her welfare. WYO. STAT. ANN. 6-2-204(c)(i).	It is an affirmative defense that the child was not less than fourteen years old and was taken away or was not returned at his own instigation and without intent to commit a criminal offense with or against the child. WYO. STAT. ANN. § 6-2-204(c)			Felony. WYO. STAT. ANN. § 6-2-204(d) & (e).