

COUNCIL OF THE DISTRICT OF COLUMBIA

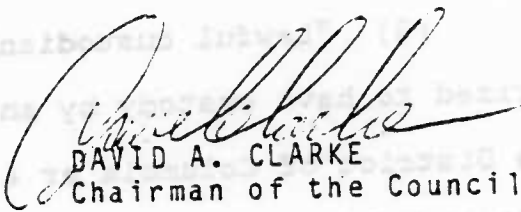
NOTICE

D.C. LAW 6-115

"Parental Kidnapping Prevention Act
of 1986".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-311 on first and second readings, March 11, 1986, and March 25, 1986, respectively. Following the signature of the Mayor on April 8, 1986, this legislation was assigned Act No. 6-150, published in the April 25, 1986, edition of the D.C. Register, (Vol. 33 page 2424) and transmitted to Congress on April 11, 1986 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-115, effective May 23, 1986.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

April 11,14,15,16,17,18,21,22,23,24,25,28,29,30

May 1,2,5,6,7,8,9,12,13,14,15,16,19,20,21,22

~~RESOLUTIVE~~ MAY 23 1986

AN ACT

D.C. ACT 6 - 150

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APR 08 1986

To make it unlawful for a parent or relative of a child to abduct, wrongfully detain, or conceal the child.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Parental Kidnapping Prevention Act of 1985."

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Child" means a person under the age of 16 years of age.
- (2) "District" means the District of Columbia.
- (3) "Lawful custodian" means a person who is authorized to have custody by an order of the Superior Court of the District of Columbia or a court of competent jurisdiction of any state, or a person designated by the lawful custodian temporarily to care for the child.
- (4) "Relative" means a parent, other ancestor, brother, sister, uncle, or aunt, or 1 who has been lawful custodian at some prior time.

Sec. 3. (a) No parent, or any person acting pursuant to directions from the parent, may intentionally conceal a child from the child's other parent.

New,
D.C. Code, sec.
16-1022
(1987 supp.)

(b) No relative, or any person acting pursuant to directions from the relative, who knows that another person is the lawful custodian of a child may:

(1) Abduct, take, or carry away a child with the intent to prevent a lawful custodian from exercising rights to custody of the child;

(2) Abduct, take, or carry away a child from a person with whom the relative has joint custody pursuant to an order, judgment, or decree of any court, with the intent to prevent a lawful custodian from exercising rights to custody to the child;

(3) Having obtained actual physical control of a child for a limited period of time in the exercise of the right to visit with or to be visited by the child or the right of limited custody of the child, pursuant to an order, judgment, or decree of any court, which grants custody of the child to another or jointly with the relative, with intent to harbor, secrete, detain, or conceal the child or to deprive a lawful custodian of the physical custody of the child, keep the child for more than 48 hours after a lawful custodian demands that the child be returned or makes all reasonable efforts to communicate a demand for the child's

return;

(4) Having custody of a child pursuant to an order, judgment, or decree of any court, which grants another person limited rights to custody of the child or the right to visit with or to be visited by the child, conceal, harbor, secrete, or detain the child with intent to deprive the other person of the right of limited custody or visitation;

(5) Conceal, harbor, secrete, or detain the child knowing that physical custody of the child was obtained or retained by another in violation of this subsection with the intent to prevent a lawful custodian from exercising rights to custody to the child;

(6) Act as an aider and abettor, conspirator, or accessory to any of the actions forbidden by this section;

(7) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining custody rights to a child, take or entice the child outside of the District for the purpose of depriving a lawful custodian of physical custody of the child; or

(8) After issuance of a temporary or final order specifying joint custody rights, take or entice a child from the other joint custodian in violation of the custody order.

Sec. 4. (a) No person violates this act if the

action:

(1) Is taken to protect the child from imminent physical harm;

(2) Is taken by a parent fleeing from imminent physical harm to the parent;

(3) Is consented to by the other parent; or

(4) Is otherwise authorized by law.

(b) If a person violates section 3 of this act, the person may file a petition in the Superior Court of the District of Columbia that:

(1) States that at the time the act was done, a failure to do the act would have resulted in a clear and present danger to the health, safety, or welfare of the child; and

(2) Seeks to establish custody, to transfer custody, or to revise or to clarify the existing custody order; except that if the Superior Court of the District of Columbia does not have jurisdiction over the custody issue, the person shall seek to establish, transfer, revise, or clarify custody in a court of competent jurisdiction.

(c) If a petition is filed as provided in subsection (b) of this section within 5 days of the action taken, exclusive of Saturdays, Sundays, and legal holidays, a finding by the court that, at the time the act was done, a failure to do the act would have resulted in a clear and

present danger to the health, safety, or welfare of the child is a complete defense to prosecution under this act.

(d) A law enforcement officer may take a child into protective custody if it reasonably appears to the officer that any person is in violation of this act and unlawfully will flee the District with the child.

(e) A child who has been detained or concealed shall be returned by a law enforcement officer to the lawful custodian or placed in the custody of another entity authorized by law.

(f) The offenses prohibited by this act are continuous in nature and continue for so long as the child is concealed, harbored, secreted, detained, or otherwise unlawfully physically removed from the lawful custodian.

(g) Any expenses incurred by the District in returning the child shall be reimbursed to the District by any person convicted of a violation of this act. Those expenses and costs reasonably incurred by the lawful custodian and child victim as a result of a violation of this act shall be assessed by the court against any person convicted of the violation.

(h) Any violation of this act is punishable in the District, whether the intent to commit the offense is formed within or without the District, if the child was a resident of the District, present in the District at the time of the

taking, or is later found in the District.

Sec. 5. (a) A person who violates any provision of section 3 of this act and who takes the child to a place within the District, or detains or conceals the child within the District of Columbia is guilty of a misdemeanor and on conviction is subject to fine not exceeding \$250 or performance of community service not exceeding 240 hours, or both.

New,
D.C. Code, sec.
16-1024
(1987 supp.)

(b) A person who violates any provision of section 3 of this act and who takes the child to a place outside the District or detains or conceals the child outside the District shall be punished as follows:

(1) If the child is out of the custody of the lawful custodian for not more than 30 days, the person is guilty of a felony and on conviction is subject to a fine not exceeding \$1,000 or imprisonment for 6 months, or both, except that if the person releases the child without injury in a safe place prior to arrest, the person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$250, or performance of community service not exceeding 240 hours, or imprisonment not exceeding 30 days, or a combination of all three.

(2) If the child is out of the custody of the lawful custodian for more than 30 days, the person is guilty of a felony and on conviction is subject to a fine not

exceeding \$5,000 or imprisonment for 1 year, or both, except that if the person releases the child without injury in a safe place prior to arrest, the person is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$500 or imprisonment not exceeding 60 days, or both.

Sec. 6. Prosecutions under this act shall be brought in the Superior Court of the District of Columbia in name of the District by the Corporation Counsel.

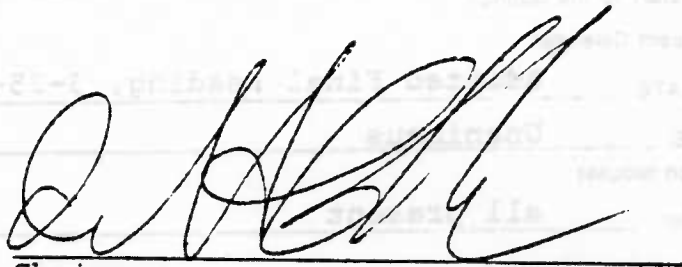
New,
D.C. Code, sec
16-1025
(1987 supp.)

Sec. 7. Any parent convicted in the Superior Court of the District of Columbia of violating any provision of this act with respect to his or her child may apply to the court for an order to expunge from all official records all records relating to the conviction at such time that the parent's youngest child has reached the age of 18 years, provided that the parent has no more than 1 conviction for a violation of this act at the time that the application for expungement is made. Any other person convicted of violating the provisions of this act may apply to the court for an order to expunge all records relating to the conviction 5 years after the conviction, or at such time as the child has reached the age of 18 years, whichever shall later occur, provided that the person has no more than 1 conviction for violating any provision of this act at the time that the application for expungement is made.

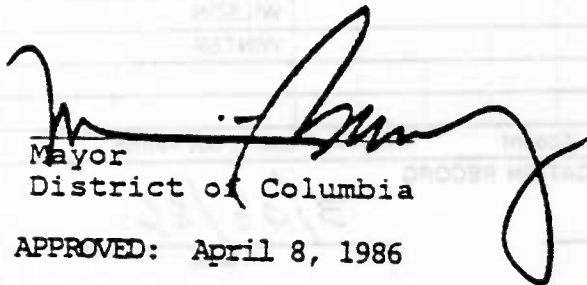
New,
D.C. Code, sec
16-1026
(1987 supp.)

Enrolled Original

Sec. 8. This act shall take effect after a 60-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: April 8, 1986



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Six - Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 6-311

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 3-11-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: - RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Russell S. ...
Secretary to the Council

3/28/86
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 3-25-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: - RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Russell S. ...
Secretary to the Council

3/28/86
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: - RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD