

A Bill for an Act Relating to Custodial Interference.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§707- Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the first degree if:

- (a) Being a relative of the person, he knowingly takes or entices a person less than eighteen years old from any other person who has a right to custody pursuant to a court order, judgment, or decree; and
- (b) He removes himself and the person less than eighteen years old from the State.

(2) Custodial interference in the first degree is a class C felony.

**§707- Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the second degree if:

- (a) He knowingly takes or entices a person less than eighteen years old from his lawful custodian, knowing that he has no right to do so; or
- (b) He knowingly takes or entices from lawful custody any incompetent person, or other person entrusted by authority of law to the custody of another person or an institution.

(2) Custodial interference in the second degree is a misdemeanor.”

SECTION 2. Section 707-722, Hawaii Revised Statutes, is amended to read as follows:

“§707-722 **Unlawful imprisonment in the second degree.** (1) A person commits the offense of unlawful imprisonment in the second degree if he knowingly restrains another person.

(2) In any prosecution under this section it is an affirmative defense, that (a) the person restrained was less than eighteen years old, (b) the defendant was a relative of the victim, and (c) his sole purpose was to assume custody over the victim. In that case, the liability of the defendant, if any, is governed by section and he may be convicted under section although charged under this section.

(3) In any prosecution under this section it is an affirmative defense, that the person restrained (a) was on or in the immediate vicinity of the premises of a retail mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise; (b) was restrained in a reasonable manner and for not more than a reasonable time; (c) was restrained to permit such investigation or questioning by a police officer or by the owner of the retail mercantile establishment, his authorized employee or agent; and (d) that such police officer, owner, employee or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft of merchandise on the premises.

(4) Unlawful imprisonment in the second degree is a misdemeanor.”

SECTION 3. Section 707-723, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 17, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.