STATE OF NEW YORK

6660

2023-2024 Regular Sessions

IN ASSEMBLY

April 26, 2023

Introduced by M. of A. BURDICK -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to including the abduction of a child to avoid treatment for gender dysphoria in the offense of custodial interference in the first degree

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 135.50 of the penal law, as amended by chapter 785 of the laws of 1981, is amended to read as follows:

§ 135.50 Custodial interference in the first degree.

A person is guilty of custodial interference in the first degree when**:**

[~~he commits~~] **1. they commit** the crime of custodial interference in the second degree:

[~~1.~~] **(a)** With intent to permanently remove the victim from this state, [~~he removes~~] **they remove** such person from the state; or

[~~2.~~] **(b)** Under circumstances which expose the victim to a risk that [~~his~~] **their** safety will be endangered or [~~his~~] **their** health materially impaired[~~.~~]**; or**

2. they abduct a minor child from the state to obtain custody of said minor child asserting that the minor child has been abused by virtue of the minor child being treated for gender dysphoria or being given gender affirming care under circumstances which are legal within the state.

It shall be an affirmative defense to a prosecution under **paragraph (a) of** subdivision one of this section that the victim had been abandoned or that the taking was necessary in an emergency to protect the victim because [~~he has~~] **they have** been subjected to or threatened with mistreatment or abuse. **For the purposes of subdivision two of this section, the offer or provision of gender affirming therapy or care, or of sex-reassignment prescriptions or procedures to the minor child shall not be considered mistreatment or abuse of the minor child.**

Custodial interference in the first degree is a class E felony.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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