## HOUSE BILL NO. 284

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## INTRODUCED BY DARKO, J. BROWN

# BY REQUEST OF THE CHILD SUPPORT ADVISORY COUNCIL

## IN THE HOUSE

JANUARY 19, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 20, 1987	PRINTING REPORT.
FEBRUARY 21, 1987	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 23, 1987	ENGROSSING REPORT.
FEBRUARY 24, 1987	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.
IN	THE SENATE
MARCH 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 28, 1987	SECOND READING, CONCURRED IN.
MARCH 30, 1987	THIRD READING, CONCURRED IN. AYES, 47; NOES, 3.
	RETURNED TO HOUSE WITH AMENDMENTS.

## IN THE HOUSE

APRIL 7, 1987

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RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

LC 0085/01

House BILL NO. 284 1 2 INTRODUCED BY 3 BY REQUEST OF THE CHILD SUPPORT ADVISORY COUNCIL 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING VISITATION 6 INTERFERENCE AND AGGRAVATED VISITATION INTERFERENCE AS 7 CRIMINAL OFFENSES; PROVIDING PENALTIES FOR AND DEFENSES TO 8 VISITATION INTERFERENCE AND AGGRAVATED VISITATION 9 INTERFERENCE." 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Visitation interference. (1) A person who 13 has legal custody of a minor child commits the offense of visitation interference if he knowingly or purposely 14 prevents, obstructs, or frustrates the visitation rights of 15 16 a person entitled to visitation under an existing court 17 order. 18 (2) A person convicted of the offense of visitation 19 interference for the first or second time shall be fined an 20 amount not to exceed \$500 or be imprisoned in the county 21 jail for a term not to exceed 6 months, or both. On a third or subsequent conviction for visitation interference, the 22

23 person convicted shall be fined an amount not to exceed 24 \$3,000 or be imprisoned in the state prison for a term not 25 to exceed 2 years, or both.

Montana Legislative Council

Section 2. Aggravated visitation interference. (1) A
 person who commits the offense of visitation interference by
 removing or taking from the state the minor child over whom
 he has legal custody commits the offense of aggravated
 visitation interference.

6 (2) A person convicted of the offense of aggravated 7 visitation interference shall be fined an amount not to 8 exceed \$3,000 or be imprisoned in the state prison for a 9 term not to exceed 2 years, or both.

10 Section 3. Defenses to visitation interference and 11 aggravated visitation interference. (1) A person does not 12 commit the offense of visitation interference or aggravated 13 visitation interference if he acts:

14 (a) with the consent of the person entitled to15 visitation; or

16 (b) under an existing court order.

17 (2) Return of the child prior to arrest is a defense
18 only with respect to the first commission of visitation
19 interference or aggravated visitation interference.

20 Section 4. Severability. If a part of this act is 21 invalid, all valid parts that are severable from the invalid 22 part remain in effect. If a part of this act is invalid in 23 one or more of its applications, the part remains in effect 24 in all valid applications that are severable from the 25 invalid applications.

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INTRODUCED BILL HB-284 Section 5. Codification instruction. Sections 1
 through 3 are intended to be codified as an integral part of
 Title 45, and the provisions of Title 45 apply to sections 1
 through 3.

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-End-

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50th Legislature

HB 0284/02

#### APPROVED BY COMMITTEE ON JUDICIARY

1	HOUSE BILL NO. 284
2	INTRODUCED BY DARKO, J. BROWN
3	BY REQUEST OF THE CHILD SUPPORT ADVISORY COUNCIL
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING VISITATION
6	INTERFERENCE AND AGGRAVATED VISITATION INTERFERENCE AS
7	CRIMINAL OFFENSES; PROVIDING PENALTIES FOR AND DEFENSES TO
8	VISITATION INTERFERENCE AND AGGRAVATED VISITATION
9	INTERFERENCE."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Visitation interference. (1) A person who
13	has legal custody of a minor child commits the offense of
14	visitation interference if he knowingly or purposely
15	prevents, obstructs, or frustrates the visitation rights of
16	a person entitled to visitation under an existing court
17	order.
18	. (2) A person convicted of the offense of visitation
19	interference for-the-first-or-second-time shall be fined an
20	amount not to exceed \$500 or be imprisoned in the county
21	jail for a term not to exceed 6-months 5 DAYS, or both. $\Theta n$
22	athirdorsubsequentconvictionforvisitation
23	interference,-the-person-convicted-shall-be-fined-anamount
24	nottoexceed\$3;000-or-be-imprisoned-in-the-state-prison
25	for a term-not-to-exceed-2-years-or-both-

Montana Legislative Council

1 Section 2. Aggravated visitation interference. (1) A 2 person who commits the offense of visitation interference by 3 removing or taking from the state the minor child over whom 4 he has legal custody <u>WITHOUT THE WRITTEN CONSENT OF THE</u> 5 <u>CUSTODIAL PARENT</u> commits the offense of aggravated 6 visitation interference.

7 (2) A person convicted of the offense of aggravated
8 visitation interference shall be fined an amount not to
9 exceed \$37000 \$1,000 or be imprisoned in the state prison
10 for a term not to exceed 2-years 18 MONTHS, or both.

Section 3. Defenses to visitation interference and
 aggravated visitation interference. (1) A person does not
 commit the offense of visitation interference or aggravated
 visitation interference if he acts:

15 (a) with the consent of the person entitled to 16 visitation; or

17 (b) under an existing court order.

18 (2) Return of the child prior to arrest is a defense
19 only with respect to the first commission of visitation
20 interference or aggravated visitation interference.

21 Section 4. Severability. If a part of this act is 22 invalid, all valid parts that are severable from the invalid 23 part remain in effect. If a part of this act is invalid in 24 one or more of its applications, the part remains in effect 25 in all valid applications that are severable from the

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HB 284 SECOND READING

HB 284

1 invalid applications.

2 Section 5. Codification instruction. Sections 1
3 through 3 are intended to be codified as an integral part of
4 Title 45, and the provisions of Title 45 apply to sections 1
5 through 3.

-End-

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**HB 0284/03** 

HOUSE BILL NO. 284	1	Section 2. Aggravated visitation interference. (1) A
INTRODUCED BY DARKO, J. BROWN	2	person who commits the offense of visitation interference,
BY REQUEST OF THE CHILD SUPPORT ADVISORY COUNCIL		by removing or taking from the state the minor child over
	4	whom he has legal custody WITHOUT THE WRITTEN CONSENT OF THE
A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING VISITATION	5	EUSTOBIALPARENT PERSON ENTITLED TO VISITATION PURSUANT TO
INTERFERENCE AND AGGRAVATED VISITATION INTERFERENCE AS	6	AN EXISTING COURT ORDER, commits the offense of aggravated
CRIMINAL OFFENSES; PROVIDING PENALTIES FOR AND DEFENSES TO	7	visitation interference.
VISITATION INTERFERENCE AND AGGRAVATED VISITATION	8	(2) A person convicted of the offense of aggravated
INTERFERENCE."	9	visitation interference shall be fined an amount not to
	10	exceed \$37888 <u>\$1,000</u> or be imprisoned in the state prison
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11	for a term not to exceed 2-years <u>18 MONTHS</u> , or both.

Section 1. Visitation interference. (1) A person who has legal custody of a minor child commits the offense of visitation interference if he knowingly or purposely prevents, obstructs, or frustrates the visitation rights of a person entitled to visitation under an existing court order.

(2) A person convicted of the offense of visitation 18 interference for-the-first-or-second-time shall be fined an 19 amount not to exceed \$500 or be imprisoned in the county 20 jail for a term not to exceed 6-months 5 DAYS, or both. On 21 a----third---or---subsequent---conviction---for---visitation 22 interferencey-the-person-convicted-shall-be-fined-an--amount 23 not--to--exceed--\$3,000-or-be-imprisoned-in-the-state-prison 24 25 for-a-term-not-to-exceed-2-years,-or-both-



12 Section 3. Defenses to visitation interference and 13 aggravated visitation interference. (1) A person does not commit the offense of visitation interference or aggravated 14 visitation interference if he acts: 15

16 (a) with the consent of the person entitled to visitation; or 17

18 (b) under an existing court order.

(2) Return of the child prior to arrest is a defense 19 20 only with respect to the first commission of visitation interference or aggravated visitation interference. 21

22 Section 4. Severability. If a part of this act is 23 invalid, all valid parts that are severable from the invalid 24 part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect 25

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## THIRD READING

HB 284

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in all valid applications that are severable from the
 invalid applications.

3 Section 5. Codification instruction. Sections 1
4 through 3 are intended to be codified as an integral part of
5 Title 45, and the provisions of Title 45 apply to sections 1
6 through 3.

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1	HOUSE BILL NO. 284	1	Section 2. Aggravated visitation interference. (1) A			
2	INTRODUCED BY DARKO, J. BROWN	2	2 person who commits the offense of visitation interference,			
3	BY REQUEST OF THE CHILD SUPPORT ADVISORY COUNCIL	3	3 by removing-or-taking-from-the-state <u>CHANGING THE RESIDENCE</u>			
4	4		OF the minor child over whom he has legal custody TO ANOTHER			
5	A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING VISITATION	5 STATE WITHOUT GIVING WRITTEN NOTICE AS REQUIRED IN 40-4-217				
6	INTERFERENCE AND AGGRAVATED VISITATION INTERFERENCE AS	6 OR WITHOUT THE WRITTEN CONSENT OF THE CUSTODIALPARENT				
7	CRIMINAL OFFENSES; PROVIDING PENALTIES FOR AND DEFENSES TO	7	7 PERSON ENTITLED TO VISITATION PURSUANT TO AN EXISTING COURT			
8	VISITATION INTERFERENCE AND AGGRAVATED VISITATION	8	B ORDER, commits the offense of aggravated visitation			
9	INTERFERENCE."	9	9 interference.			
10		10	(2) A person convicted of the offense of aggravated			
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	11	visitation interference shall be fined an amount not to			
12	Section 1. Visitation interference. (1) A person who	12	12 exceed \$37000 \$1,000 or be imprisoned in the state prison			
13	has legal custody of a minor child commits the offense of	13	13 for a term not to exceed 2-years <u>18 MONTHS</u> , or both.			
14	visitation interference if he knowingly or purposely	14	14 Section 3. Defenses to visitation interference and			
15	prevents, obstructs, or frustrates the visitation rights of	15	15 aggravated visitation interference. (1) A person does not			
16	a person entitled to visitation under an existing court	16	16 commit the offense of visitation interference or aggravated			
17	order.	17	17 visitation interference if he acts:			
18	(2) A person convicted of the offense of visitation	18	(a) with the consent of the person entitled to			
19	interference for-the-first-or-second-time shall be fined an	19	19 visitation; <del>or</del>			
20	amount not to exceed \$500 or be imprisoned in the county	20	(b) under an existing court order; OR			
21	jail for a term not to exceed 6-months <u>5 DAYS</u> , or both. $\Theta n$	21	1 (C) WITH REASONABLE CAUSE.			
22	athirdorsubsequentconvictionforvisitation	22	2 (2) Return of the child prior to arrest is a defense			
23	interference7-the-person-convicted-shall-be-fined-anamount	23	only with respect to the first commission of visitation			
24	nottoexceed\$3,000-or-be-imprisoned-in-the-state-prison	24	interference or aggravated visitation interference.			
25	for-a-term-not-to-exceed-2-years;-or-both.	25	Section 4. Severability. If a part of this act is			
	Δ		-2- HB 284			

Montana Legislative Council

REFERENCE BILL

HB 284

invalid, all valid parts that are severable from the invalid
 part remain in effect. If a part of this act is invalid in
 one or more of its applications, the part remains in effect
 in all valid applications that are severable from the
 invalid applications.

6 Section 5. Codification instruction. Sections 1
7 through 3 are intended to be codified as an integral part of
8 Title 45, and the provisions of Title 45 apply to sections 1
9 through 3.

-End-

# STANDING COMMITTEE REPORT

SENATE	March 23	10 87
MR. PRESIDENT		
SENATE JUDICIARY		
having had under consideration	HOUSE BILL	No
Third blue reading copy ( ) color		
COIOF		
Visitation interference as a o Darko (Halligan)	crime.	
Respectfully report as follows: That	HOUSE BILL	<sub>No</sub> .284
<ol> <li>Page 2, line 3.</li> <li>Strike: "removing" through "st Insert: "changing the residence</li> </ol>		
<pre>2. Page 2, line 4. Following: "custody" Insert: "to another state with required in 40-4-217 or"</pre>	nout giving written notice	as .
3. Page 2, line 17. Strike: "or"		
<pre>4. Page 2, line 18. Following: "order" Insert: "; or         (c) with reasonable cause'</pre>	9 .	
7080k/C:JEANNE\WP:jj Amendments, HB 284		
W/C AND AS AMENDED		
BE CONCURRED IN	~	
MEXXXXXXXX	Senator Mazurek	Chairman.

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