

SENATE BILL No. 631

September 8, 2011, Introduced by Senators SCHUITMAKER, JONES, GLEASON, MARLEAU, BIEDA, PROOS and PAPPAGEORGE and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 350a (MCL 750.350a), as amended by 2004 PA 223.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 350a. (1) An adoptive or natural parent of a child shall
2 not take that child, or retain that child for more than 24 hours,
3 with the intent to detain or conceal the child from any other
4 parent or legal guardian of the child who has custody or parenting
5 time rights ~~pursuant to~~ **UNDER** a lawful court order at the time of
6 the taking or retention, or from the person or persons who have
7 adopted the child, or from any other person having lawful charge of
8 the child at the time of the taking or retention.

9 (2) A parent who violates subsection (1) is guilty of a
10 felony, punishable by imprisonment for not more than 1 year and 1
11 day, or a fine of not more than \$2,000.00, or both.

1 (3) A parent who violates this section, upon conviction, in
2 addition to any other punishment, may be ordered to make
3 restitution to the other parent, legal guardian, the person or
4 persons who have adopted the child, or any other person having
5 lawful charge of the child for any financial expense incurred as a
6 result of attempting to locate and having the child returned.

7 (4) When a parent who has not been convicted previously of a
8 violation of section 349, 350, or this section, or under any
9 statute of the United States or of any state related to kidnapping,
10 pleads guilty to, or is found guilty of, a violation of this
11 section, the court, without entering a judgment of guilt and with
12 the consent of the accused parent, may defer further proceedings
13 and place the accused parent on probation with lawful terms and
14 conditions. The terms and conditions of probation may include
15 participation in a drug treatment court under chapter 10A of the
16 revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to
17 ~~600.1082.~~ **600.1084.** Upon a violation of a term or condition of
18 probation, the court may enter an adjudication of guilt and proceed
19 as otherwise provided. Upon fulfillment of the terms and conditions
20 of probation, the court shall discharge from probation and dismiss
21 the proceedings against the parent. Discharge and dismissal under
22 this subsection shall be without adjudication of guilt and is not a
23 conviction for purposes of disqualifications or disabilities
24 imposed by law upon conviction of a crime, including any additional
25 penalties imposed for second or subsequent convictions. The
26 department of state police shall retain a nonpublic record of an
27 arrest, **DIVERSION**, and discharge and dismissal under this section.

1 This record shall be furnished to either or both of the following:

2 (a) To a court or police agency upon request for the purpose
3 of showing that a defendant in a criminal action has already
4 availed himself or herself of this subsection.

5 (b) To a court, police agency, or prosecutor upon request for
6 the purpose of determining whether the defendant in a criminal
7 action is eligible for discharge and dismissal of proceedings by a
8 drug treatment court under section 1076(4) of the revised
9 judicature act of 1961, 1961 PA 236, MCL 600.1076.

10 (5) It is a complete defense under this section if a parent
11 proves that his or her actions were taken for the purpose of
12 protecting the child from an immediate and actual threat of
13 physical or mental harm, abuse, or neglect.