

ORDINANCE NO. 2023-O-157

AN INTRODUCTORY ORDINANCE OF THE CITY OF LAREDO, TEXAS, AMENDING CHAPTER 21, OFFENSES AND MISCELLANEOUS PROVISIONS, CREATING ARTICLE XV, INTERFERENCE WITH CHILD CUSTODY ORDERS, WHICH IMPLEMENTS A CIVIL PENALTY FOR VIOLATING COURT-ORDERED CHILD CUSTODY, A FINE NOT TO EXCEED \$500, TO DETER VIOLATIONS OF CHILD CUSTODY ORDERS BY IMPROPERLY POSSESSING A CHILD, STARTING SEPTEMBER 1, 2023, PROVIDING A SEVERABILITY CLAUSE, PROVIDING FOR PUBLICATION, AND DECLARING AN EFFECTIVE DATE.

WHEREAS the City of Laredo recognizes that the courts have an increasing backlog of Interference with Child Custody cases;

WHEREAS, Children, who are caught in the middle of contentious custody battles, ultimately suffer when individuals refuse to abide by court-mandated child custody orders;

WHEREAS, House Bill 959, which amended the Texas Family Code, aimed to empower municipalities or counties to create a civil penalty of up to \$500 to be levied against individuals who engage in conduct described by Section 25.03 of the Texas Penal Code, effective as of September 1, 2023;

WHEREAS, the City of Laredo will have an effective tool in supporting the enforcement of child custody orders, and parents will have peace of mind in having additional custody order enforcement resources.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO, TEXAS, THAT:

SECTION 1. The City of Laredo Code of Ordinances, Chapter 21, Offenses and Miscellaneous Provisions, is hereby amended as follows:

ARTICLE XV – INTERFERENCE WITH CHILD CUSTODY ORDERS

Sec. 21-282. - Offenses

A person commits an offense if the person takes or retains a child younger than 18 years of age:

(a) when the person knows that the person's taking or retention violates the express terms of a judgment or order, including a temporary order, of a court disposing of the child's custody;

(b) when the person has not been awarded custody of the child by a court of competent jurisdiction, knows that a suit for divorce or a civil suit or application for habeas corpus to dispose of the child's custody has been filed, and takes the child out of the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, without the permission of the court and with the intent to deprive the court of authority over the child; or

(c) outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person.

A noncustodial parent commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, the noncustodial parent knowingly entices or persuades the child to leave the custody of the custodial parent, guardian, or person standing in the stead of the custodial parent or guardian of the child.

Sec. 21-283. – Defenses

It is a defense to prosecution under Subsection (a)(2) that the actor returned the child to the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, within three days after the date of the commission of the offense.

It is an affirmative defense to prosecution under Subsection (a)(3) that:

(a) the taking or retention of the child was pursuant to a valid order providing for possession of or access to the child; or

(b) notwithstanding any violation of a valid order providing for possession of or access to the child, the actor's retention of the child was due only to circumstances beyond the actor's control, and the actor promptly provided notice or made reasonable attempts to provide notice of those circumstances to the other person entitled to possession of or access to the child.

Subsection c (c) from Sec. 21-283 does not apply if, at the time of the offense, the person taking or retaining the child:

(a) was entitled to possession of or access to the child; and

(b) was fleeing the commission or attempted commission of family violence, as defined by Section 71.004, Family Code, against the child or the person.

Sec. 21-284. – Penalty

An offense under this section shall be a fine not to exceed \$500.

Sec. 21-285. - Reserved

SECTION 2. This ordinance shall be cumulative of all provisions of ordinances of the City of Laredo, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the City Council would have enacted the


same without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. The City Secretary of the City of Laredo is hereby directed to publish the proposed Ordinance as required by Section 2.09 (D) of the Charter of the City of Laredo.

SECTION 5. After passage by City Council, this Ordinance shall become effective upon publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS

21st DAY OF August 2023.



DR. VICTOR D. TREVIÑO
MAYOR

ATTESTED:



JOSE A. VALDEZ, JR.
CITY SECRETARY

APPROVED AS TO FORM:



DOANH T. "ZONE" NGUYEN
CITY ATTORNEY



City Council-Regular

Meeting Date: 08/21/2023

Initiated By: Joaquin A. Rodriguez

Staff Source: Legal

SUBJECT

2023-O-157 An introductory ordinance of the city of Laredo, Texas, amending chapter 21, offenses and miscellaneous provisions, creating article xv, interference with child custody orders, which implements a civil penalty for violating court-ordered child custody, a fine not to exceed \$500, to deter violations of child custody orders by improperly possessing a child, starting September 1, 2023, providing a severability clause, providing for publication, and declaring an effective date.

VENDOR INFORMATION FOR COMMITTEE AGENDA

N/A

PREVIOUS COUNCIL ACTION

Approved

BACKGROUND

NA

COMMITTEE RECOMMENDATION

N/A

STAFF RECOMMENDATION

Recommend Approval

Fiscal Impact

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

Fines will be deposited into General Fund.

Attachments

Ordinance Interference Child Custody

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