5-02/160.05 - Unlawful Detention, Concealment

Section 278 PC provides for a felony/misdemeanor punishment when "every person, not having a right to custody, maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian."

This section applies to any person "not having a right to custody" who maliciously takes a child. Lacking a custody order, this section is inapplicable to situations involving a mother or father who has equal custody rights; however, it would apply to any other family member who does not have the right of custody.