

**ROLL CALL TRAINING**  
**FROM NORTH CAROLINA'S 24/7 POLICE**  
**ATTORNEY LAW FIRM**

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**TOPIC:**

CHILD CUSTODY / TRANSPORTING CHILD OUT OF STATE

Congratulations this week to Sheriff Mark Shook and the Watauga County Sheriff's Office for the successful investigation and recovery of two young children abducted from North Carolina and taken to Tennessee. The children had earlier been placed in foster care after Sheriff's investigators disrupted a meth lab being operated in the Watauga County home where the children were living with their parents. Last week, the children were abducted from their foster home at gunpoint by their parents, leading to an Amber Alert and ultimately the children's safe return. Sheriff Shook did an admirable job of providing information about the missing children nationwide, including multiple appearances with FOX NEWS' Greta Van Susteren. The professionalism displayed by Sheriff Shook before a national audience was a credit to North Carolina law enforcement Statewide.

This brings us to the legal topic of transporting a child outside the State with the intent to violate a custody order. The goal of this Roll Call Training is to remind officers of an important North Carolina statute that provides as follows:

**G.S. § 14-320.1 Transporting Child Outside The State With Intent To Violate Custody Order**

When any federal court or state court in the United States shall have awarded custody of a child under the age of 16 years, it shall be a felony for any person with the intent to violate the court order to take or transport, or cause to be taken or transported, any such child from any point within this State to any point outside the limits of this State. Such crime shall be punishable as a Class I felony. Provided that keeping a child outside the limits of the State in violation of a court order for a period in excess of 72 hours shall be prima facie evidence that the person charged intended to violate the order at the time of taking.

**WHAT FIRST-LINE SUPERVISORS SHOULD KNOW**

First-line supervisors should alert officers not only to the existence of this statute, but also caution officers on the element requiring a custody order to be in effect. Frequently, parent A will file a complaint that parent B (informally separated and living apart) is about to leave North Carolina with their child against parent A's wishes. The complainant may phrase the complaint with any number of dramatic terms ("child-napping," "abduction," "fleeing with my child," and so forth). Officers should be careful not to be misled and thereby overreact. Unless such "abduction" or "fleeing" is in violation of a valid court order, one must remember that a custodial parent may ordinarily transport his or her child anywhere they wish. This is not a crime (though it is frequently the basis for parents to "squabble").

Similarly, the mere fact that a child has been referred to as “missing” or “abducted” or “kidnapped” in an NCIC bulletin doesn’t automatically mean that a crime has been committed. SR&S has seen numerous cases where an “abducted” child is in fact in the lawful custody of a parent who has rightfully transported the child to a distant locale (such as to visit grandparents in another state). The fact that the other parent is unhappy with the travel arrangements — and wishes to report the child as a “victim of an abduction” such that this phrase gets inserted into an NCIC bulletin — doesn’t convert the transportation into a crime. Officers on the “found child” side of these cases are well advised to carefully *investigate* the circumstances carefully. In cases such as this, officers should resist the temptation to automatically treat NCIC bulletins as the equivalent of an arrest warrant or “child pick-up order.” Officers should also be careful not to automatically act upon legal-sounding phrases and terminology found in NCIC bulletins in lieu of first investigating the true circumstances of the case.

Notice that the Watauga County matter discussed above *did* involve transporting a child outside the State with intent to violate a custody order (the custody order placing these children in the care of foster parents). And of course, under the circumstances, these “parents” may be found guilty of crimes in addition to G.S. § 14-320.1.

*Client agencies of SR&S are encouraged to contact our switchboard 24/7 with questions involving child custody enforcement. These cases can raise exceedingly tricky legal issues.*

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