

1                                   **CUSTODIAL INTERFERENCE AMENDMENTS**

2                                   2008 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Carl Wimmer**

5                                   Senate Sponsor: \_\_\_\_\_

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7 **LONG TITLE**

8 **General Description:**

9                   This bill amends Utah Criminal Code provisions relating to the crime of custodial  
10 interference.

11 **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ defines the term "custody";
- 14                   ▶ enacts a modified version of the crime of custodial interference;
- 15                   ▶ retains the penalties imposed for custodial interference under the law that this bill
- 16 replaces; and
- 17                   ▶ creates affirmative defenses to the crime of custodial interference.

18 **Monies Appropriated in this Bill:**

19                   None

20 **Other Special Clauses:**

21                   None

22 **Utah Code Sections Affected:**

23 **REPEALS AND REENACTS:**

24                   **76-5-303**, as last amended by Laws of Utah 2001, Chapter 255

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26 *Be it enacted by the Legislature of the state of Utah:*

27                   Section 1. Section **76-5-303** is repealed and reenacted to read:



28 76-5-303. Custodial interference.

29 (1) As used in this section, "custody" means court-ordered custody, parent-time, or  
30 visitation, if the order is entered by a court of competent jurisdiction.

31 (2) A person, whether a parent or other, who is entitled to custody of a child under the  
32 age of 18, is guilty of custodial interference if the person intentionally or knowingly takes,  
33 entices, conceals, detains, or withholds the child from an individual who is entitled to custody  
34 of the child, or otherwise intentionally or knowingly interferes with the custody to which that  
35 individual is entitled:

36 (a) during a period of time when:

37 (i) the person is not entitled to custody of the child; and

38 (ii) the individual is entitled to custody of the child; and

39 (b) with the intent of depriving the individual of the custody of the child to which the  
40 individual is entitled.

41 (3) Custodial interference is a class A misdemeanor, unless the child is removed and  
42 taken from the state, in which case custodial interference is a felony of the third degree.

43 (4) It is an affirmative defense to the crime of custodial interference that:

44 (a) the action was necessary to protect the accused or the child from imminent physical  
45 harm; or

46 (b) the action was consented to by the individual whose custody of the child was  
47 interfered with.

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**Legislative Review Note**  
as of 1-29-08 12:33 PM

**Office of Legislative Research and General Counsel**