

Representative Ryan D. Wilcox proposes the following substitute bill:

UNLAWFUL DETENTION AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the offense of unlawful detention.

Highlighted Provisions:

This bill:

▶ creates the offense of unlawful detention of a minor when a person ~~H~~→ [18 years of age or older] who is at least four or more years older than the victim ←~~H~~ coerces or influences a minor who is 14 or 15 years of age to stay with the person without the consent of the minor's parent or guardian, for an unreasonable amount of time, and in a situation that is not the offense of kidnapping.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-21-501, as last amended by Laws of Utah 2011, Chapter 320

76-5-304, as last amended by Laws of Utah 2001, Chapter 301

76-5-306, as enacted by Laws of Utah 2001, Chapter 301

77-36-1, as last amended by Laws of Utah 2011, Chapters 113 and 320



88 (a) the act is under circumstances not constituting a violation of:

89 (i) kidnapping, Section 76-5-301;

90 (ii) child kidnapping, Section 76-5-301.1; or

91 (iii) aggravated kidnapping, Section 76-5-302; and

92 (b) the actor is ~~H~~→ [18 years of age or older] at least four or more years older than the
 92a victim ←H .

93 [~~2~~] (3) As used in this section, acting "against the will of the victim" includes acting
 94 without the consent of the legal guardian or custodian of a victim who is:

95 (a) a mentally incompetent person[-]; or

96 (b) a minor who is 14 or 15 years of age.

97 [~~3~~] (4) Unlawful detention is a class B misdemeanor.

98 Section 3. Section **76-5-306** is amended to read:

99 **76-5-306. Lesser included offenses.**

100 In this part, the following offenses are lesser included offenses of Section 76-5-302,
 101 aggravated kidnapping:

102 (1) Section 76-5-301, kidnapping; and

103 (2) Section 76-5-304, unlawful detention or unlawful detention of a minor.

104 Section 4. Section **77-36-1** is amended to read:

105 **77-36-1. Definitions.**

106 As used in this chapter:

107 (1) "Cohabitant" has the same meaning as in Section 78B-7-102.

108 (2) "Department" means the Department of Public Safety.

109 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
 110 3, Divorce.

111 (4) "Domestic violence" means any criminal offense involving violence or physical
 112 harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to
 113 commit a criminal offense involving violence or physical harm, when committed by one
 114 cohabitant against another. "Domestic violence" also means commission or attempt to commit,
 115 any of the following offenses by one cohabitant against another:

116 (a) aggravated assault, as described in Section 76-5-103;

117 (b) assault, as described in Section 76-5-102;

118 (c) criminal homicide, as described in Section 76-5-201;