

Representative Val K. Potter proposes the following substitute bill:

PARENTAL KIDNAPPING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val K. Potter

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill creates the new offense of parental kidnapping.

Highlighted Provisions:

This bill:

- ▶ defines the new criminal offense of parental kidnapping as one parent withholding a child from the other parent or guardian in such a way that the parent or guardian cannot exercise certain civil remedies;

- ▶ states that parental kidnapping is a class B misdemeanor for the first and second convictions;

- ▶ makes parental kidnapping a class A misdemeanor on the third conviction; and

- ▶ increases the designation to a third degree felony if the child is removed from the state.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



26 [76-5-303.1](#), Utah Code Annotated 1953



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

29 Section 1. Section **76-5-303.1** is enacted to read:

30 **76-5-303.1. Parental kidnapping.**

31 (1) A person commits parental kidnapping if the person is a parent or legal guardian of
32 a child and, under circumstances not amounting to custodial interference in violation of Section
33 76-5-303, takes, entices, conceals, detains, or otherwise withholds the child from the child's
34 other parent or legal guardian with the intent to deprive the other parent or legal guardian from
35 association with the child, and deprives the other parent or legal guardian of the reasonable
36 exercise of civil remedies relating to establishing and exercising custody or visitation of the
37 child.

38 (2) Except as provided in Subsection (3) or (4), parental kidnapping is a class B
39 misdemeanor if the child is not removed from the state.

40 (3) Except as provided in Subsection (4), a parent or legal guardian described in
41 Subsection (1) is guilty of a class A misdemeanor if the parent or legal guardian:

42 (a) commits parental kidnapping; and

43 (b) has been convicted of parental kidnapping when the child has not been removed
44 from the state at least twice in the two-year period immediately preceding the day on which the
45 commission of parental kidnapping described in Subsection (3)(a) occurs.

46 (4) Parental kidnapping is a felony of the third degree if, during the course of the
47 parental kidnapping, the person described in Subsection (1) removes, causes the removal, or
48 directs the removal of the child from the state.

49 (5) In addition to the affirmative defenses described in Section [76-5-305](#), it is an
50 affirmative defense to the crime of parental kidnapping that:

51 (a) the other parent or legal guardian of the child consented to the action; or

52 (b) the action is based on a reasonable belief that the action is necessary to protect a
53 child from abuse, including sexual abuse;

54 (c) before engaging in the action, the person reported the person's intention to engage
55 in the action, and the basis for the belief described in this Subsection (5)(b), to the Division of
56 Child and Family Services or law enforcement; or

57

(d) the action was to flee an incident or pattern of domestic violence.