

CUSTODIAL INTERFERENCE AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends Utah Criminal Code Provisions relating to the crime of custodial interference.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ enacts a modified version of the crime of custodial interference;
- ▶ provides that custodial interference is:
 - a felony of the third degree, if, during the course of the custodial interference,

the actor removes, causes the removal, or directs the removal of the child from the state;

- a class A misdemeanor if the third degree felony provisions described above do not apply and the actor commits custodial interference within three years after the day on which the person was previously convicted of custodial interference;

or

- a class B misdemeanor if the felony and class A misdemeanor provisions described above do not apply; and

- ▶ creates an affirmative defense to the crime of custodial interference.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 REPEALS AND REENACTS:

32 **76-5-303**, as last amended by Laws of Utah 2001, Chapter 255



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

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 Section **76-5-303** is repealed and reenacted to read:

36 **76-5-303. Custodial interference.**

37 (1) As used in this section:

38 (a) "Child" means a person under the age of 18.

39 (b) "Custody" means court-ordered custody, parent-time, or visitation, if the order is
40 entered by a court of competent jurisdiction.

41 (2) A person, whether a parent or other, is guilty of custodial interference if the person
42 intentionally or knowingly takes, entices, conceals, detains, or withholds a child from an
43 individual who is entitled to custody of the child, or otherwise intentionally or knowingly
44 interferes with the custody to which that individual is entitled, during a period of time when:

45 (a) the person is not entitled to custody of the child; and

46 (b) the individual is entitled to custody of the child.

47 (3) (a) Except as provided in Subsection (3)(b) or (c), custodial interference is a class B
48 misdemeanor.

49 (b) Except as provided in Subsection (3)(c), custodial interference is a class A
50 misdemeanor, if the person described in Subsection (2) commits custodial interference within
51 three years after the day on which the person was previously convicted of custodial
52 interference.

53 (c) Custodial interference is a felony of the third degree if, during the course of the
54 custodial interference, the person described in Subsection (2) removes, causes the removal, or
55 directs the removal of the child from the state.

56 (4) In addition to the affirmative defenses described in Section 76-5-305, it is an
57 affirmative defense to the crime of custodial interference that the action was consented to by
58 the individual whose custody of the child was interfered with.

Legislative Review Note
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Office of Legislative Research and General Counsel