

CUSTODIAL INTERFERENCE AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl Wimmer

Senate Sponsor: _____

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~~ defenses 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 Section **76-5-303** is repealed and reenacted to read: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 physical custody, entered by a court of competent
40 jurisdiction.

41 (c) "Visitation" means court-ordered parent-time or visitation, entered by a court of
42 competent jurisdiction.

43 (2) (a) A person who is entitled to custody of a child is guilty of custodial interference
44 if, during a period of time when another person is entitled to visitation of the child, the person
45 takes, entices, conceals, detains, or withholds the child from the person entitled to visitation of
46 the child, with the intent to interfere with the visitation of the child.

47 (b) A person who is entitled to visitation of a child is guilty of custodial interference if,
48 during a period of time when the person is not entitled to visitation of the child, the person
49 takes, entices, conceals, detains, or withholds the child from a person who is entitled to custody
50 of the child, with the intent to interfere with the custody of the child.

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

53 (b) Except as provided in Subsection (3)(c), custodial interference is a class A
54 misdemeanor, if the actor described in Subsection (2) commits custodial interference within
55 three years after the day on which the actor was previously convicted of custodial interference.

56 (c) Custodial interference is a felony of the third degree if, during the course of the
57 custodial interference, the actor described in Subsection (2) removes, causes the removal, or
58 directs the removal of the child from the state.

59 (4) In addition to the affirmative defenses described in Section 76-5-305, it is an
60 affirmative defense to the crime of custodial interference that ~~H~~→ :
60a (a) ~~H~~ the action ~~H~~→ [was] is ~~H~~ consented to by
61 the person whose custody or visitation of the child was interfered with ~~H~~→ [:] ; or
61a (b) (i) the action is based on a reasonable belief that the action is necessary to protect a
61b child from abuse, including sexual abuse; and
61c (ii) before engaging in the action, the person reports the person's intention to engage in the
61d action, and the basis for the belief described in Subsection (4)(b)(i), to the Division of Child
61e and Family Services or law enforcement. ~~H~~

Legislative Review Note
as of 7-9-09 10:19 AM

Office of Legislative Research and General Counsel

H.B. 197 - Custodial Interference Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
