

**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 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 Section **76-5-303** is repealed and reenacted to read: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 the action was consented to by  
61 the person whose custody or visitation of the child was interfered with.

---

---

**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.

---