

1 **PARENTAL KIDNAPPING AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Val K. Potter**

5 Senate Sponsor: Lyle W. Hillyard

6

LONG TITLE

7 **General Description:**

8 This bill creates the new offense of parental kidnapping.

9 **Highlighted Provisions:**

10 This bill:

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

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

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

17 ▶ increases the designation to a third degree felony if the child is removed from the
18 state.
19

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **79-5-303.1**, Utah Code Annotated 1953
27



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

29 Section 1. Section **79-5-303.1** is enacted to read:

30 **79-5-303.1. 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, and before engaging in the action, the person
54 reported the person's intention to engage in the action, and the basis for the belief described in
55 this Subsection (5)(b), to the Division of Child and Family Services or law enforcement.