

## HB0173S01 compared with HB0173

~~{deleted text}~~ shows text that was in HB0173 but was deleted in HB0173S01.

Inserted text shows text that was not in HB0173 but was inserted into HB0173S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: \_\_\_\_\_

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#### 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.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

~~{79-5-303}~~76-5-303.1, Utah Code Annotated 1953

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

Section 1. Section ~~{79-5-303}~~76-5-303.1 is enacted to read:

~~{79-5-303}~~76-5-303.1. **Parental kidnapping.**

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

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

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

(a) commits parental kidnapping; and

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

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

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

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

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

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

### Legislative Review Note

~~Office of Legislative Research and General Counsel~~; ~~or~~

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