

Representative V. Lowry Snow proposes the following substitute bill:

AGGRAVATED KIDNAPPING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill clarifies the relationship between kidnapping and unlawful detention as predicate offenses for aggravated kidnapping.

Highlighted Provisions:

This bill:

► clarifies the relationship between kidnapping and unlawful detention as lesser included offenses of aggravated kidnapping.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-302, as last amended by Laws of Utah 2013, Chapter 81

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

Section 1. Section **76-5-302** is amended to read:

76-5-302. Aggravated kidnapping.



26 (1) An actor commits aggravated kidnapping if the actor, in the course of committing
27 unlawful detention or kidnapping:

28 (a) [~~possesses,~~] uses, or threatens to use a dangerous weapon as defined in Section
29 76-1-601; or

30 (b) acts with intent:

31 (i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a
32 third person to engage in particular conduct or to forbear from engaging in particular conduct;

33 (ii) to facilitate the commission, attempted commission, or flight after commission or
34 attempted commission of a felony;

35 (iii) to hinder or delay the discovery of or reporting of a felony;

36 (iv) to inflict bodily injury on or to terrorize the victim or another;

37 (v) to interfere with the performance of any governmental or political function; or

38 (vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual
39 Offenses.

40 (2) As used in this section, "in the course of committing unlawful detention or
41 kidnapping" means in the course of committing, attempting to commit, or in the immediate
42 flight after the attempt or commission of a violation of:

43 (a) Section 76-5-301, kidnapping; or

44 (b) Section 76-5-304, unlawful detention.

45 (3) Aggravated kidnapping in violation of Subsection (2)(b) is a ~~H~~ → **[second]**

45a **third** ← ~~H~~ degree felony.

46 [~~3~~] (4) Aggravated kidnapping in violation of Subsection (2)(a) is a first degree
47 felony punishable by a term of imprisonment of:

48 (a) except as provided in Subsection [~~3~~](b), [~~3~~](c), or [~~4~~] (4)(b), (4)(c), or (5), not less
49 than 15 years and which may be for life;

50 (b) except as provided in Subsection [~~3~~](c) or [~~4~~] (4)(c) or (5), life without parole, if
51 the trier of fact finds that during the course of the commission of the aggravated kidnapping the
52 defendant caused serious bodily injury to another; or

53 (c) life without parole, if the trier of fact finds that at the time of the commission of the
54 aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

55 [~~4~~] (5) If, when imposing a sentence under Subsection [~~3~~] (4)(a) or (b), a court finds
56 that a lesser term than the term described in Subsection [~~3~~] (4)(a) or (b) is in the interests of

57 justice and states the reasons for this finding on the record, the court may impose a term of
58 imprisonment of not less than:

59 (a) for purposes of Subsection [~~(3)~~] (4)(b), 15 years and which may be for life; or

60 (b) for purposes of Subsection [~~(3)~~] (4)(a) or (b):

61 (i) 10 years and which may be for life; or

62 (ii) six years and which may be for life.

63 [~~(5)~~] (6) The provisions of Subsection [~~(4)~~] (5) do not apply when a person is
64 sentenced under Subsection [~~(3)~~] (4)(c).

65 [~~(6)~~] (7) Subsections [~~(3)(b) and (3)(c)~~] (4)(b) and (4)(c) do not apply if the defendant
66 was younger than 18 years of age at the time of the offense.

67 [~~(7)~~] (8) Imprisonment under [~~this section~~] Subsection (4) is mandatory in accordance
68 with Section [76-3-406](#).