

AGGRAVATED KIDNAPPING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill clarifies that unlawful detention is not a predicate offense for aggravated kidnapping.

Highlighted Provisions:

This bill:

- ▶ removes unlawful detention from the aggravating kidnapping statute; and
- ▶ clarifies that kidnapping is the only lesser included offense 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

76-5-306, as last amended by Laws of Utah 2012, Chapter 39

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.



28 (1) An actor commits aggravated kidnapping if the actor, in the course of committing
29 ~~[unlawful detention or]~~ kidnapping:

30 (a) possesses, uses, or threatens to use a dangerous weapon as defined in Section
31 76-1-601; or

32 (b) acts with intent:

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

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

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

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

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

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

42 (2) As used in this section, "in the course of committing ~~[unlawful detention or]~~
43 kidnapping" means in the course of committing, attempting to commit, or in the immediate
44 flight after the attempt or commission of a violation of ~~[(a)]~~ Section 76-5-301, ~~[kidnapping;~~
45 ~~or]~~ Kidnapping.

46 ~~[(b) Section 76-5-304, unlawful detention:]~~

47 (3) Aggravated kidnapping is a first degree felony punishable by a term of
48 imprisonment of:

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

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

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

56 (4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a
57 lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and
58 states the reasons for this finding on the record, the court may impose a term of imprisonment

59 of not less than:

60 (a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

61 (b) for purposes of Subsection (3)(a) or (b):

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

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

64 (5) The provisions of Subsection (4) do not apply when a person is sentenced under
65 Subsection (3)(c).

66 (6) Subsections (3)(b) and (3)(c) do not apply if the defendant was younger than 18
67 years of age at the time of the offense.

68 (7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

69 Section 2. Section 76-5-306 is amended to read:

70 **76-5-306. Lesser included offense.**

71 ~~[In] For the purposes of this part, [the following offenses are] Section 76-5-301,~~

72 Kidnapping, is a lesser included ~~[offenses]~~ offense of Section 76-5-302, aggravated
73 kidnapping[+].

74 ~~[(1) Section 76-5-301, kidnapping; and]~~

75 ~~[(2) Section 76-5-304, unlawful detention or unlawful detention of a minor.]~~

Legislative Review Note
Office of Legislative Research and General Counsel