

**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: \_\_\_\_\_

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**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

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

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

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



26 **76-5-302. Aggravated kidnapping.**

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

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

31 (b) acts with intent:

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

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

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

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

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

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

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

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

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

46 (3) Aggravated kidnapping in violation of Subsection (2)(b) is a third degree felony.

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

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

51 (b) except as provided in Subsection ~~[(3)(c) or (4)]~~ (4)(c) or (5), life without parole, if  
52 the trier of fact finds that during the course of the commission of the aggravated kidnapping the  
53 defendant 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)]~~ (5) If, when imposing a sentence under Subsection ~~[(3)]~~ (4)(a) or (b), a court finds

57 that a lesser term than the term described in Subsection ~~[(3)]~~ (4)(a) or (b) is in the interests of  
58 justice and states the reasons for this finding on the record, the court may impose a term of  
59 imprisonment of not less than:

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

61 (b) for purposes of Subsection ~~[(3)]~~ (4)(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)]~~ (6) The provisions of Subsection ~~[(4)]~~ (5) do not apply when a person is  
65 sentenced under Subsection ~~[(3)]~~ (4)(c).

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

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

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

71 **76-5-306. Lesser included offense.**

72 ~~[It]~~ For the purposes of this part, [the following offenses are] Section [76-5-301](#),  
73 Kidnapping, is a lesser included [offenses] offense of Section [76-5-302](#), aggravated  
74 kidnapping[.].

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

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