

HB0287S01 compared with HB0287

~~text~~ shows text that was in HB0287 but was deleted in HB0287S01.

Inserted text shows text that was not in HB0287 but was inserted into HB0287S01.

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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 ~~that~~ the relationship between kidnapping and unlawful detention ~~is not a~~ as predicate ~~offense~~ offenses for aggravated kidnapping.

Highlighted Provisions:

This bill:

- ▶ ~~removes~~ clarifies the relationship between kidnapping and unlawful detention ~~from the aggravating kidnapping statute; and~~
→ ~~clarifies that kidnapping is the only~~ as lesser included ~~offense~~ offenses of aggravated kidnapping.

Money Appropriated in this Bill:

None

Other Special Clauses:

HB0287S01 compared with HB0287

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.

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

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

(b) acts with intent:

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

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

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

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

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

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

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

(a) ~~Section 76-5-301, kidnapping; or Kidnapping.~~

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

(3) Aggravated kidnapping in violation of Subsection (2)(b) is a third degree felony.
(3) (4) Aggravated kidnapping in violation of Subsection (2)(a) is a first degree felony punishable by a term of imprisonment of:

HB0287S01 compared with HB0287

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

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

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

~~[(4)]~~ [(5)] If, when imposing a sentence under Subsection ~~[(3)]~~ [(4)] (a) or (b), a court finds that a lesser term than the term described in Subsection ~~[(3)]~~ [(4)] (a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

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

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

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

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

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

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

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

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

76-5-306. Lesser included offense.

~~[In]~~ For the purposes of this part, [the following offenses are] Section 76-5-301, Kidnapping, is a lesser included [offenses] offense of Section 76-5-302, aggravated kidnapping[.].

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

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

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HB0287S01 compared with HB0287

Legislative Review Note

Office of Legislative Research and General Counsel