

## HB0287S03 compared with HB0287S02

~~deleted text~~ shows text that was in HB0287S02 but was deleted in HB0287S03.

Inserted text shows text that was not in HB0287S02 but was inserted into HB0287S03.

**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 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:

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AMENDS:

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

76-5-304, 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:

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

(1) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or 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 unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

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

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

(3) Aggravated kidnapping in ~~violation of Subsection (2)(b)~~ **the course of committing unlawful detention** is a ~~second~~ **third** degree felony.

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

(a) except as provided in Subsection ~~[(3)(b), (3)(c), or (4)]~~ (4)(b), (4)(c), or (5), not less

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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 76-5-304 is amended to read:

**76-5-304. Unlawful detention and unlawful detention of a minor.**

(1) An actor commits unlawful detention if the actor intentionally or knowingly, without authority of law, and against the will of the victim, detains or restrains the victim under circumstances not constituting a violation of:

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

(b) child kidnapping, Section 76-5-301.1[; or].

~~[(c) aggravated kidnapping, Section 76-5-302.]~~

(2) An actor commits unlawful detention of a minor if the actor intentionally or knowingly, without authority of law, and against the will of the victim, coerces or exerts influence over the victim with the intent to cause the victim to remain with the actor for an

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unreasonable period of time under the circumstances, and:

(a) the act is under circumstances not constituting a violation of:

(i) kidnapping, Section 76-5-301; or

(ii) child kidnapping, Section 76-5-301.1[;or] and

[~~(iii) aggravated kidnapping, Section 76-5-302; and~~]

(b) the actor is at least four or more years older than the victim.

(3) As used in this section, acting "against the will of the victim" includes acting

without the consent of the legal guardian or custodian of a victim who is:

(a) a mentally incompetent person; or

(b) a minor who is 14 or 15 years of age.

(4) Unlawful detention is a class B misdemeanor.