

HB0143S01 compared with HB0143

~~text~~ shows text that was in HB0143 but was deleted in HB0143S01.

text shows text that was not in HB0143 but was inserted into HB0143S01.

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Representative Jon Hawkins proposes the following substitute bill:

PARENTAL KIDNAPPING AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon Hawkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to parental kidnapping.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ makes it a crime for a parent without visitation ~~rights~~ or custody rights to interfere with custody of a child.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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ENACTS:

76-5-301.2, Utah Code Annotated 1953

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

Section 1. Section 76-5-301.2 is enacted to read:

76-5-301.2. Parental kidnapping.

(1) (a) As used in this section:

(i) "Child" means an individual under 18 years old.

(ii) "Custody" means court-ordered physical custody of a child entered by a court ~~of~~ competent jurisdiction.

(iii) "Parent" means an individual:

(A) recognized as a biological parent or adoptive parent; or

(B) that has established a parent-child relationship under Section 78B-15-201.

(iv) "~~Visitation~~ Parent-time" means court-ordered parent-time or visitation entered by a court ~~of~~ competent jurisdiction.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) A parent commits parental kidnapping of the parent's child if the parent:

~~(a) is not entitled to custody or visitation of a child;~~

~~(b)~~ (a) takes, entices, conceals, detains, or withholds the child from an individual entitled to custody of the child; ~~and~~

~~(c)~~ (b) intends to interfere with the custody of the child; ~~and~~

(c) (i) has never had a right to physical custody of the child;

(ii) has never been granted parent-time with the child;

(iii) has had all rights to physical custody of the child terminated by a court; or

(iv) at the time of the parent's action under Subsection (2)(a), had parent-time with the child terminated or suspended by a court.

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if, during the course of parental kidnapping, the parent removes, causes the removal, or directs the removal of the child from the state.

(4) In addition to the affirmative defenses described in Section 76-5-305, it is an

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affirmative defense to the crime of parental kidnapping that:

(a) the parent acted under a reasonable belief that the action described in Subsection

(2)(~~f~~~~b~~~~+~~~~a~~) was:

(i) necessary to protect the child from imminent serious bodily injury, or death;

(ii) authorized by law; or

(iii) taken with the consent of:

(A) the individual entitled to custody of the child; or

(B) a custodian, guardian, caretaker, or other individual lawfully acting in place of the individual entitled to custody of the child; or

(b) (i) the parent acted under a reasonable belief that the action described in Subsection

(2)(~~f~~~~b~~~~+~~~~a~~) was necessary to protect the child from abuse, including sexual abuse; and

(ii) before taking the action described in Subsection (2)(~~f~~~~b~~~~+~~~~a~~), the parent reports to law enforcement the parent's intention to engage in the action and the basis for the parent's belief described in Subsection (4)(b)(i).