

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0044

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to CODINGTON-----Kidnapping.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 22-19-1 be amended to read as follows:

4 22-19-1. Any person who ~~shall seize, confine, inveigle, decoy, abduct, or carry away any~~
5 ~~person and hold or detain such person, except in the case of an unmarried minor by a parent~~
6 ~~thereof, for, either unlawfully removes another person from the other's place of residence or~~
7 ~~employment, or who unlawfully removes another person a substantial distance from the vicinity~~
8 ~~where the other was at the commencement of the removal, or who unlawfully confines another~~
9 ~~person for a substantial period of time, with any of the following reasons purposes:~~

10 (1) To hold for ransom or reward, or as a shield or hostage; or

11 (2) To facilitate the commission of any felony or flight thereafter; or

12 (3) To inflict bodily injury on or to terrorize the victim or another; or

13 (4) To interfere with the performance of any governmental or political function; or

14 (5) To take or entice away a child under the age of fourteen years with intent to detain
15 and conceal such child;

16 is guilty of kidnapping. Kidnapping is a ~~Class 1~~ Class C felony, ~~except if unless~~ the person has



1 inflicted a ~~gross permanent physical injury~~ serious bodily injury on the victim, in which case it
2 is aggravated kidnapping and is a ~~Class A~~ Class B felony.

3 Section 2. That § 22-19-6 be amended to read as follows:

4 22-19-6. Any person who receives, possesses, or disposes of any money or other property
5 ~~or portion thereof,~~ which has, at any time, been delivered as a ransom or reward in connection
6 with a ~~violation of the statute against kidnapping knowing the same to be~~ and who knows that
7 the money or property ~~which has been at any time delivered as such~~ is ransom or reward in
8 connection with a kidnapping, is guilty of a Class 3 felony.

9 Section 3. That § 22-19-7.1 be amended to read as follows:

10 22-19-7.1. No person may attempt, by any means, to take, allure, or entice away a child
11 under the age of ~~fourteen~~ sixteen for any illegal purpose. A violation of this section is a Class
12 1 misdemeanor. ~~A~~ Any subsequent violation is a Class 6 felony.

13 Section 4. That § 22-19-8 be amended to read as follows:

14 22-19-8. Any person to whom an infant has been confided, who, with intent to deceive the
15 parent or guardian of the child, substitutes or produces another child in the place of the one so
16 confided, is guilty of a Class 5 felony.

17 Section 5. That § 22-19-9 be amended to read as follows:

18 22-19-9. Any parent who takes, entices away, or keeps his or her unmarried minor child
19 from the custody or visitation of the other parent, or any other person having lawful custody or
20 right of visitation, in violation of a custody or visitation determination entitled to enforcement
21 by the courts of this state, without prior consent is guilty of a Class 1 misdemeanor. ~~A~~ Any
22 subsequent violation of this section is a Class 6 felony.

23 Section 6. That § 22-19-10 be amended to read as follows:

24 22-19-10. Any parent who violates § 22-19-9 and causes the unmarried minor child, taken,

1 enticed, or kept from ~~his~~ the child's lawful custodian, to be removed from the state is guilty of
2 a Class 5 felony.

3 Section 7. That § 22-19-11 be amended to read as follows:

4 22-19-11. It is a complete defense to a prosecution for a violation of §§ 22-19-9 and 22-19-
5 10 that the person having lawful custody or right of visitation failed to report the offense to law
6 enforcement authorities within ninety days of the offense.

7 Section 8. That § 22-19-12 be amended to read as follows:

8 22-19-12. The state or any other unit of government incurring financial expense for the
9 return of the child may charge that cost against the person extradited if ~~he~~ that person is found
10 ~~to be~~ guilty of a violation of § 22-19-10. Such expense may be charged against the person filing
11 the charge if the person extradited is found ~~to be~~ not guilty of a violation of § 22-19-10.

12 Section 9. That § 22-19-13 be amended to read as follows:

13 22-19-13. The Department of Social Services shall enter into an agreement with the
14 secretary of health and human services as authorized by the Parental Kidnapping Act of 1980,
15 94 Stat. 3572, 42 U.S.C. 663, as amended, under which the services of the parent locator service
16 established pursuant to Title IV-D of the Social Security Act, 49 Stat. 620 (1935), 42 U.S.C.
17 301, as amended, shall be made available to this state for the purpose of determining the
18 whereabouts of any absent parent or child in order to enforce a any law with respect to the
19 unlawful taking or restraint of a child, or to make or enforce a any child custody determination.

20 Section 10. That § 22-19-14 be amended to read as follows:

21 22-19-14. When a missing child report is made to a law enforcement agency in this state that
22 has jurisdiction in the matter, the law enforcement agency shall gather readily available
23 information about the missing child and integrate it such information into the national crime
24 information center computer within twelve hours following the making of the report. The law

1 enforcement agency shall make reasonable efforts to acquire additional information about the
2 missing child following the transmittal of the initially available information and promptly
3 integrate any additional information acquired into such computer systems.

4 Section 11. That § 22-19-15 be amended to read as follows:

5 22-19-15. Whenever a law enforcement agency integrates information about a missing child
6 into the national crime information center computer, the law enforcement agency shall promptly
7 notify the missing child's parents, custodial parent, guardian, or legal custodian, or any other
8 person responsible for the missing child, ~~that it has done so~~ of that action.

9 Section 12. That § 22-19-16 be amended to read as follows:

10 22-19-16. ~~The parents~~ Each parent, custodial parent, guardian, legal custodian, or other
11 person responsible for the missing child shall provide available information upon request, and
12 may provide information voluntarily, to the law enforcement agency during the information
13 gathering process. The law enforcement agency also may obtain available information about the
14 missing child from other persons subject to constitutional and statutory limitations.

15 Section 13. The code counsel shall transfer §§ 22-19-13, 22-19-14, 22-19-15, and 22-19-16
16 to Title 26 and shall renumber the sections accordingly and adjust all appropriate cross
17 references.

18 Section 14. That chapter 22-19 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Any person who knowingly and purposely restrains another person unlawfully so as to
21 substantially interfere with such person's liberty is guilty of false imprisonment. False
22 imprisonment is a Class 1 misdemeanor.