

TITLE 7. PUBLIC PEACE, MORALS, AND WELFARE

Chapter 7.6

KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE

Sections:

- 7.6.1 Definitions.
- 7.6.2 Kidnapping in the First Degree.
- 7.6.3 Kidnapping in the Second Degree.
- 7.6.4 False Arrest.
- 7.6.5 Unlawful Imprisonment.
- 7.6.6 Custodial Interference.
- 7.6.7 Defense to Action for Being Detained on Mercantile Establishment Premises.

7.6.1. Definitions. The following definitions apply in this chapter:

(a) "Restrain" means to restrict a person's movements without consent and without legal authority in a manner which interferes substantially with his or her liberty. Restraint is "without consent" if it is accomplished by:

(1) Physical force, intimidation, or deception; or

(2) Any means including acquiescence of the victim if he or she is a child less than sixteen (16) years old or an incompetent person and if the parent, guardian, or other person or institution having lawful control of custody of him or her has not acquiesced.

(b) "Abduct" means to restrain a person by either:

(1) Secreting or holding him or her in a place where he or she is not likely to be found, or

(2) Using or threatening to use deadly force.

(c) "Relative" means an ancestor, descendant, or sibling, including a relative of the same degree through marriage or adoption, or a spouse. (Res. 93-025 (part), passed Mar. 8, 1993)

7.6.2. Kidnapping in the First Degree. (a) A person is guilty of kidnapping in the first degree if he or she intentionally abducts another person with intent:

(1) To hold him or her for ransom or reward or as a shield or hostage;

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

- (3) To inflict bodily injury on him or her;
- (4) To inflict extreme mental distress on him or her or a third person; or
- (5) To interfere with the performance of any governmental function.

(b) Kidnapping in the first degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.6.3. Kidnapping in the Second Degree. (a) A person is guilty of kidnapping in the second degree if he or she intentionally abducts another person under circumstances not amounting to kidnapping in the first degree.

(b) In any prosecution for kidnapping in the second degree, it is a defense if established by the defendant by a preponderance of the evidence that:

- (1) The abduction does not include the use of or intent to use or threat to use deadly force;
- (2) The actor is a relative of the person abducted; and
- (3) The actor's sole intent is to assume custody of that person. Nothing contained in this paragraph shall constitute a defense to a prosecution for or preclude a conviction of any other crime.

(c) Kidnapping in the second degree is a felony. (Res. 93-025 (part), passed Mar. 8, 1993)

7.6.4. False Arrest. Any person who shall willfully and knowingly make or cause to be made the unlawful arrest, detention, or imprisonment of another person shall be guilty of an offense and upon conviction thereof shall be sentenced to confinement for a period of not more than three (3) months or to pay a fine of not more than three hundred dollars (\$300) or both, with costs. (Prior code Ch. III, Art. I, §34; and §7.6.35 renumbered in the 1995 supplement)

7.6.5. Unlawful Imprisonment. (a) A person is guilty of unlawful imprisonment if he or she knowingly restrains another person without lawful authority.

(b) Unlawful imprisonment is a felony. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered in the 1995 supplement)

7.6.6. Custodial Interference. (a) A person is guilty of custodial interference if, knowing that he or she has no legal right to do so, he or she takes or entices from lawful custody an incompetent person or other person entrusted by authority of law to the custody of another person or institution.

(b) Custodial interference is a gross misdemeanor. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered in the 1995 supplement)

7.6.7. Defense to Action for Being Detained on Mercantile Establishment Premises. In any criminal action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigating or questioning as to the ownership of any merchandise, it shall be a defense to the action that:

(a) The person was detained in a reasonable manner and for not more than a reasonable time to permit the investigation or questioning by a law enforcement officer or by the owner's authorized employee or agent; and

(b) The person conducting the investigation or questioning had reasonable grounds to believe that the person detained committed or attempted to commit theft or shoplifting of the merchandise on the premises. (Res. 93-025 (part), passed Mar. 8, 1993; renumbered in the 1995 supplement)

Note: All subsections in this chapter have been renumbered for consistency, as follows. (Res. 2016-090, Jun. 20, 2016)

All Arabic numerals (1, 2, 3, etc.) used as subsection headings have been changed to lower case letters (a, b, c, etc.)

All lower case letters have been changed to Arabic numerals

Example: What was previously 7.6.1(1)(a) is now 7.6.1(a)(1)