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Crimes; parental child abduction

N.R.S. §200.359 (amended).

AB 488 (Jeffrey); STATS 1981, Ch 305

Chapter 305 is an apparent response to the growing awareness of the problem of child abduction by noncustodial parents or persons with limited custody.¹ Under existing law, noncustodial parents or persons having a limited right of custody pursuant to a court order, judgment, or decree, who wrongfully detain, conceal, or remove a child from a person with lawful custody are subject to criminal prosecution.² Chapter 305 extends coverage to those persons who obtain limited custody pursuant to a judgment or decree granting another person custody or visitation rights.³ Furthermore, Chapter 305 now requires that the defendant must *willfully* abduct the child from the person with lawful custody or right of visitation in order to be subject to liability.⁴

In addition, Chapter 305 increases the penalty from a misdemeanor⁵ to a felony,⁶ punishable by imprisonment in the state prison for not less than one nor more than six years, or by a fine,⁷ or by both fine and imprisonment.⁸ The prosecuting attorney may recommend to the court, however, that the defendant receive a misdemeanor sentence.⁹ The judge may impose the lesser penalty upon a finding that (1) the defendant has not been previously convicted of this offense, and (2) the interests of justice will be served by the imposition of the reduced penalty.¹⁰ Upon conviction the defendant must reimburse the parent, guardian, or other person for any expenses incurred while locating or recovering the child.¹¹

1. See generally Fleck, *Child Snatching by Parents: What Legal Remedies for "Flee and Plea?"*, 55 CHI-KENT L. REV. 303 (1979); Lewis, *Legalized Kidnapping of Children by Their Parents*, 80 DICK. L. REV. 305 (1976). See also CAL. PENAL CODE §§278-278.5.

2. See N.R.S. §200.359 1.

3. See *id.*

4. Compare N.R.S. §200.359 1 with STATUTES OF NEVADA 1975, c. 689, §1, at 1397 (enacting N.R.S. §200.359).

5. N.R.S. §193.120 3 (every crime punishable by a fine of not more than \$500, or by imprisonment in a county jail for not more than 6 months, is a misdemeanor).

6. *Id.* §193.120 2 (every crime which may be punished by death or by imprisonment in the state prison is a felony).

7. See *id.* §200.359 1 (not less than \$1,000 nor more than \$5,000).

8. See *id.*

9. See *id.* §200.359 3.

10. See *id.* §200.359 3(a), (b).

11. See *id.* §200.359 2.