

PENAL CODE

TITLE 5. OFFENSES AGAINST THE PERSON

CHAPTER 20. KIDNAPPING, UNLAWFUL RESTRAINT, AND  
SMUGGLING OF PERSONS

Sec. 20.01. DEFINITIONS. In this chapter:

(1) "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person. Restraint is "without consent" if it is accomplished by:

(A) force, intimidation, or deception; or

(B) any means, including acquiescence of the victim, if:

(i) the victim is a child who is less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement; or

(ii) the victim is a child who is 14 years of age or older and younger than 17 years of age, the victim is taken outside of the state and outside a 120-mile radius from the victim's residence, and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement.

(2) "Abduct" means to restrain a person with intent to prevent his liberation by:

(A) secreting or holding him in a place where he is not likely to be found; or

(B) using or threatening to use deadly force.

(3) "Relative" means a parent or stepparent, ancestor, sibling, or uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

(4) "Person" means an individual, corporation, or association.

(5) Notwithstanding Section 1.07, "individual" means a human being who has been born and is alive.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.  
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,

1994; Acts 1999, 76th Leg., ch. 790, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 822, Sec. 2.03, eff. Sept. 1, 2003.

Sec. 20.02. UNLAWFUL RESTRAINT. (a) A person commits an offense if he intentionally or knowingly restrains another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child younger than 14 years of age;

(2) the actor was a relative of the child; and

(3) the actor's sole intent was to assume lawful control of the child.

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the person restrained was a child younger than 17 years of age; or

(2) a felony of the third degree if:

(A) the actor recklessly exposes the victim to a substantial risk of serious bodily injury;

(B) the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; or

(C) the actor while in custody restrains any other person.

(d) It is no offense to detain or move another under this section when it is for the purpose of effecting a lawful arrest or detaining an individual lawfully arrested.

(e) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child who is 14 years of age or older and younger than 17 years of age;

(2) the actor does not restrain the child by force, intimidation, or deception; and

(3) the actor is not more than three years older than the child.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.  
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 707, Sec. 1(b), 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 790, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 524, Sec. 1, eff. Sept. 1, 2001.

Sec. 20.03. KIDNAPPING. (a) A person commits an offense if he intentionally or knowingly abducts another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the abduction was not coupled with intent to use or to threaten to use deadly force;

(2) the actor was a relative of the person abducted; and

(3) the actor's sole intent was to assume lawful control of the victim.

(c) An offense under this section is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.  
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 20.04. AGGRAVATED KIDNAPPING. (a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:

(1) hold him for ransom or reward;

(2) use him as a shield or hostage;

(3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;

(4) inflict bodily injury on him or violate or abuse him sexually;

(5) terrorize him or a third person; or

(6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.  
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 4, eff. Sept. 1, 1995.

This section was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [11](#), 84th Legislature, Regular Session, for amendments affecting this section.

Sec. 20.05. SMUGGLING OF PERSONS. (a) A person commits an offense if the person intentionally uses a motor vehicle, aircraft, or watercraft to transport an individual with the intent to:

(1) conceal the individual from a peace officer or special investigator; or

(2) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor.

(b) Except as provided by Subsection (c), an offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if the actor commits the offense:

(1) for pecuniary benefit; or

(2) in a manner that creates a substantial likelihood that the transported individual will suffer serious bodily injury or death.

(d) It is an affirmative defense to prosecution under this section that the actor is related to the transported individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both

sections.

Added by Acts 1999, 76th Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 223 (H.B. [260](#)), Sec. 2, eff.  
September 1, 2011.