

**ANOMALIES SUBCOMMITTEE PROPOSAL ON**  
**UNLAWFUL DETENTION AMENDMENTS**

*JULY 27, 2016 3:30 P.M.*

**§ 76-5-302 Aggravated Kidnapping**

- (1) An actor commits aggravated kidnapping if the actor, in the course of committing ~~unlawful detention~~ ~~or~~ kidnapping:
- (a) possesses, uses, or threatens to use a dangerous weapon as defined in Section 76-1-601; or
  - (b) acts with intent:
    - (i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;
    - (ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;
    - (iii) to hinder or delay the discovery of or reporting of a felony;
    - (iv) to inflict bodily injury on or to terrorize the victim or another;
    - (v) to interfere with the performance of any governmental or political function; or
    - (vi) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.
- (2) As used in this section, “in the course of committing ~~unlawful detention~~ ~~or~~ kidnapping” means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:
- ~~(a) Section 76-5-301, kidnapping.;~~ ~~or~~
  - ~~(b) Section 76-5-304, unlawful detention.~~
- (3) Aggravated kidnapping is a first degree felony punishable by a term of imprisonment of:
- (a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;
  - (b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to another; or
  - (c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.
- (4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
- (a) for purposes of Subsection (3)(b), 15 years and which may be for life; or
  - (b) for purposes of Subsection (3)(a) or (b):
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply when a person is sentenced under Subsection (3)(c).
- (6) Subsections (3)(b) and (3)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.
- (7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

### § 76-5-304.5 Aggravated unlawful detention

(1) An actor commits aggravated unlawful detention if the actor, in the course of committing unlawful detention:

(a) possesses, uses, or threatens to use a dangerous weapon as defined in Section 76-1-601; or

(b) acts with intent:

(i) to hold the victim for ransom or reward, or as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) to facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) to hinder or delay the discovery of or reporting of a felony;

(iv) to inflict bodily injury on or to terrorize the victim or another; or

(v) to commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) As used in this section, "in the course of committing unlawful detention means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(a) Section 76-5-304, Unlawful detention

(3) Penalty

(a) Except as stated in part (3)(b) and (3)(c), aggravated unlawful detention is a second degree felony.

(b) Under part (1)(a), if the actor merely possesses a dangerous weapon and does not use it or threaten to use it, aggravated unlawful detention is a third degree felony.

(c) Under subsection 1(b)(ii), 1(b)(iii), 1(b)(iv) and 1(b)(v), Aggravated Unlawful Detention is a third degree felony.