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18 USC CHAPTER 55 – KIDNAPPING 01/06/03

–EXPCITE–

TITLE 18 – CRIMES AND CRIMINAL PROCEDURE

PART I – CRIMES

CHAPTER 55 – KIDNAPPING

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CHAPTER 55 – KIDNAPPING

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Sec.

1201. Kidnapping.

1202. Ransom money.

1203. Hostage taking.

1204. International parental kidnapping.

AMENDMENTS

1994 – Pub. L. 103–322, title XXXIII, Sec. 330021(1), Sept. 13, 1994, 108 Stat. 2150, which directed the amendment of this title by "striking 'kidnaping' each place it appears and inserting 'kidnapping' ", was executed by substituting "KIDNAPPING" for "KIDNAPING" in chapter heading and "Kidnapping" for "Kidnaping" in item 1201, to reflect the probable intent of Congress.

1993 – Pub. L. 103–173, Sec. 2(c), Dec. 2, 1993, 107 Stat. 1999, added item 1204.

1984 – Pub. L. 98–473, title II, Sec. 2002(b), Oct. 12, 1984, 98

Stat. 2186, added item 1203.

1972 – Pub. L. 92–539, title II, Sec. 202, Oct. 24, 1972, 86

Stat. 1072, substituted "Kidnaping" for "Transportation" in  
item 1201.

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18 USC Sec. 1201 01/06/03

–EXPCITE–

## TITLE 18 – CRIMES AND CRIMINAL PROCEDURE

### PART I – CRIMES

#### CHAPTER 55 – KIDNAPPING

–HEAD–

#### Sec. 1201. Kidnapping

–STATUTE–

(a) Whoever unlawfully seizes, confines, inveigles, decoys,  
kidnaps, abducts, or carries away and holds for ransom or reward or  
otherwise any person, except in the case of a minor by the parent  
thereof, when –

(1) the person is willfully transported in interstate or  
foreign commerce, regardless of whether the person was alive when  
transported across a State boundary if the person was alive when  
the transportation began;

(2) any such act against the person is done within the special  
maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special  
aircraft jurisdiction of the United States as defined in section

46501 of title 49;

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties,

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported to interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d) Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than twenty years.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49. For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(f) In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(g) Special Rule for Certain Offenses Involving Children. –

(1) To whom applicable. – If –

(A) the victim of an offense under this section has not attained the age of eighteen years; and

(B) the offender –

(i) has attained such age; and

(ii) is not –

- (I) a parent;
- (II) a grandparent;
- (III) a brother;
- (IV) a sister;
- (V) an aunt;
- (VI) an uncle; or
- (VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

(2) Guidelines. – The United States Sentencing Commission is directed to amend the existing guidelines for the offense of "kidnapping, abduction, or unlawful restraint," by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any of the conduct specified in this section by another person, then increase by 2 levels.

(h) As used in this section, the term "parent" does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court

order.

–SOURCE–

(June 25, 1948, ch. 645, 62 Stat. 760; Aug. 6, 1956, ch. 971, 70 Stat. 1043; Pub. L. 92–539, title II, Sec. 201, Oct. 24, 1972, 86 Stat. 1072; Pub. L. 94–467, Sec. 4, Oct. 8, 1976, 90 Stat. 1998; Pub. L. 95–163, Sec. 17(b)(1), Nov. 9, 1977, 91 Stat. 1286; Pub. L. 95–504, Sec. 2(b), Oct. 24, 1978, 92 Stat. 1705; Pub. L. 98–473, title II, Sec. 1007, Oct. 12, 1984, 98 Stat. 2139; Pub. L. 99–646, Sec. 36, 37(b), Nov. 10, 1986, 100 Stat. 3599; Pub. L. 101–647, title IV, Sec. 401, title XXXV, Sec. 3538, Nov. 29, 1990, 104 Stat. 4819, 4925; Pub. L. 103–272, Sec. 5(e)(2), (8), July 5, 1994, 108 Stat. 1373, 1374; Pub. L. 103–322, title VI, Sec. 60003(a)(6), title XXXII, Sec. 320903(b), 320924, title XXXIII, Sec. 330021, Sept. 13, 1994, 108 Stat. 1969, 2124, 2131, 2150; Pub. L. 104–132, title VII, Sec. 721(f), Apr. 24, 1996, 110 Stat. 1299; Pub. L. 105–314, title VII, Sec. 702, Oct. 30, 1998, 112 Stat. 2987.)

–MISC1–

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., Sec. 408a, 408c (June 22, 1932, ch. 271, Sec. 1, 3, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 781, 782).

Section consolidates sections 408a and 408c of title 18 U.S.C., 1940 ed.

Reference to persons aiding, abetting or causing was omitted as unnecessary because such persons are made principals by section 22 of this title.

Words "upon conviction" were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Direction as to confinement "in the penitentiary" was omitted because of section 4082 of this title which commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The phrase "for any term of years or for life" was substituted for the words "for such term of years as the court in its discretion shall determine" which appeared in said section 408a of Title 18, U.S.C., 1940 ed. This change was made in order to remove all doubt as to whether "term of years" includes life imprisonment.

Minor changes were made in phraseology.

#### AMENDMENTS

1998 – Subsec. (a)(1). Pub. L. 105–314, Sec. 702(a), inserted ", regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began" before semicolon at end.

Subsec. (a)(5). Pub. L. 105–314, Sec. 702(b), substituted "described" for "designated".

Subsec. (b). Pub. L. 105–314, Sec. 702(c), inserted at end "Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended."

1996 – Subsec. (e). Pub. L. 104–132 substituted "If the victim

of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States." for "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender." and inserted at end "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."

1994 – Pub. L. 103–322, Sec. 330021(1), which directed the amendment of this title "by striking 'kidnaping' each place it appears and inserting 'kidnapping' ", was executed by substituting "Kidnapping" for "Kidnaping" as section catchline, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103–322, Sec. 60003(a)(6), in concluding provisions, inserted "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

Subsec. (a)(3). Pub. L. 103–272, Sec. 5(e)(8), substituted "section 46501 of title 49" for "section 101(38) of the Federal



Aviation Act of 1958".

Subsec. (b). Pub. L. 103–322, Sec. 330021(2), substituted

"kidnapped" for "kidnaped".

Subsec. (d). Pub. L. 103–322, Sec. 320903(b), substituted "(a)"

for "(a)(4) or (a)(5)".

Subsec. (e). Pub. L. 103–272, Sec. 5(e)(2), substituted "section

46501(2) of title 49" for "section 101(38) of the Federal

Aviation Act of 1958, as amended (49 U.S.C. 1301(38))".

Subsec. (h). Pub. L. 103–322, Sec. 320924, added subsec. (h).

1990 – Subsec. (a)(3). Pub. L. 101–647, Sec. 3538, substituted

"101(38)" for "101(36)" and struck out ", as amended (49

U.S.C. 1301(36))" after "Federal Aviation Act of 1958".

Subsec. (g). Pub. L. 101–647, Sec. 401, added subsec. (g).

1986 – Subsec. (a). Pub. L. 99–646, Sec. 36, substituted "when –

" for "when:" in introductory text, substituted "the person"

for "The person" and "official duties" for "his official

duties" in par. (5), and aligned the margin of par. (5) with the

margins of pars. (1) to (4).

Subsec. (d). Pub. L. 99–646, Sec. 37(b), inserted "or (a)(5)"

after "subsection (a)(4)".

1984 – Subsec. (a)(5). Pub. L. 98–473 added par. (5).

1978 – Subsec. (a)(3). Pub. L. 95–504 substituted reference to

section 101(36) of the Federal Aviation Act of 1958 for reference

to section 101(33) of such Act. See References in Text note above.

Subsec. (e). Pub. L. 95–504 substituted reference to section

101(38) of the Federal Aviation Act of 1958 for section 101(35) of

such Act.

1977 – Subsec. (a)(3). Pub. L. 95–163 substituted reference to section 101(33) of the Federal Aviation Act of 1958 for reference to section 101(32) of such Act. See References in Text note above.

Subsec. (e). Pub. L. 95–163 substituted reference to section 101(35) of the Federal Aviation Act of 1958 for reference to section 101(34) of such Act.

1976 – Subsec. (a)(4). Pub. L. 94–467, Sec. 4(a), substituted provision which includes acts committed against an internationally protected person and an official guest as defined in section 1116(b) of this title for provision which included acts committed against an official guest as defined in section 1116(c) of this title.

Subsecs. (d) to (f). Pub. L. 94–467, Sec. 4(b), added subsecs. (d) to (f).

1972 – Subsec. (a). Pub. L. 92–539 substituted "Kidnaping" for "Transportation" in section catchline and, in subsec. (a), extended the jurisdictional base to include acts committed within the special maritime, territorial, and aircraft jurisdiction of the United States, and to include acts committed against foreign officials and official guests, and struck out provisions relating to death penalty.

Subsec. (b). Pub. L. 92–539 inserted reference to subsec. (a)(1).

Subsec. (c). Pub. L. 92–539 substituted "by imprisonment for any term of years or for life" for "as provided in subsection (a)".

1956 – Subsec. (b). Act Aug. 6, 1956, substituted "twenty-four

hours" for "seven days".

#### SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–173, Sec. 1, Dec. 2, 1993, 107 Stat. 1998, provided that: "This Act (enacting section 1204 of this title and provisions set out as a note under section 1204 of this title) may be cited as the 'International Parental Kidnapping Crime Act of 1993'."

#### SHORT TITLE OF 1984 AMENDMENT

Section 2001 of part A (Sec. 2001–2003) of chapter XX of title II of Pub. L. 98–473 provided that: "This part (enacting section 1203 of this title and provisions set out as a note under section 1203 of this title) may be cited as the 'Act for the Prevention and Punishment of the Crime of Hostage–Taking'."

–SECREf–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 11, 115, 878, 1202, 1956, 2333, 3486, 3592, 4042 of this title.

–CITE–

18 USC Sec. 1202 01/06/03

–EXPCITE–

#### TITLE 18 – CRIMES AND CRIMINAL PROCEDURE

#### PART I – CRIMES

#### CHAPTER 55 – KIDNAPPING

–HEAD–

Sec. 1202. Ransom money

–STATUTE–

(a) Whoever receives, possesses, or disposes of any money or other property, or any portion thereof, which has at any time been delivered as ransom or reward in connection with a violation of section 1201 of this title, knowing the same to be money or property which has been at any time delivered as such ransom or reward, shall be fined under this title or imprisoned not more than ten years, or both.

(b) A person who transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

(c) For purposes of this section, the term "State" has the meaning set forth in section 245(d) of this title.

—SOURCE—

(June 25, 1948, ch. 645, 62 Stat. 760; Pub. L. 103–322, title XXXII, Sec. 320601(b), title XXXIII, Sec. 330016(1)(L), Sept. 13, 1994, 108 Stat. 2115, 2147.)

—MISC1—

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., Sec. 408c–1 (June 22, 1932, ch. 271, Sec. 4, as added Jan. 24, 1936, ch. 29, 49 Stat. 1099).

Words "in the penitentiary" after "imprisoned" were omitted in view of section 4082 of this title committing prisoners to the

custody of the Attorney General. (See reviser's note under section 1 of this title.)

Minor changes were made in phraseology.

## AMENDMENTS

1994 – Pub. L. 103–322, Sec. 320601(b), designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Subsec. (a). Pub. L. 103–322, Sec. 330016(1)(L), substituted "fined under this title" for "fined not more than \$10,000".

–SECREf–

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 section 1101.

–CITE–

18 USC Sec. 1203 01/06/03

–EXPCITE–

## TITLE 18 – CRIMES AND CRIMINAL PROCEDURE

### PART I – CRIMES

#### CHAPTER 55 – KIDNAPPING

–HEAD–

Sec. 1203. Hostage taking

–STATUTE–

(a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained, or

attempts or conspires to do so, shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b)(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless

—

(A) the offender or the person seized or detained is a national of the United States;

(B) the offender is found in the United States; or

(C) the governmental organization sought to be compelled is the Government of the United States.

(2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

(c) As used in this section, the term "national of the United States" has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

—SOURCE—

(Added Pub. L. 98–473, title II, Sec. 2002(a), Oct. 12, 1984, 98 Stat. 2186; amended Pub. L. 100–690, title VII, Sec. 7028, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103–322, title VI, Sec. 60003(a)(10), Sept. 13, 1994, 108 Stat. 1969; Pub. L. 104–132, title VII, Sec. 723(a)(1), Apr. 24, 1996, 110 Stat. 1300.)

–MISC1–

## AMENDMENTS

1996 – Subsec. (a). Pub. L. 104–132 inserted "or conspires" after "attempts".

1994 – Subsec. (a). Pub. L. 103–322 inserted before period at end "and, if the death of any person results, shall be punished by death or life imprisonment".

1988 – Subsec. (c). Pub. L. 100–690 substituted "(c) As" for "(C) As".

## EFFECTIVE DATE

Section 2003 of part A (Sec. 2001–2003) of chapter XX of title II of Pub. L. 98–473 provided that: "This part and the amendments made by this part (enacting this section and provisions set out as a note under section 1201 of this title) shall take effect on the later of –

"(1) the date of the enactment of this joint resolution (Oct. 12, 1984); or

"(2) the date the International Convention Against the Taking of Hostages has come into force and the United States has become a party to that convention (the convention entered into force June 6, 1983; and entered into force for the United States Jan. 6, 1985)."

–SECREf–

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1956, 2332b, 2333, 2339A, 2516, 3592 of this title.

–CITE–

18 USC Sec. 1204 01/06/03

–EXPCITE–

## TITLE 18 – CRIMES AND CRIMINAL PROCEDURE

### PART I – CRIMES

#### CHAPTER 55 – KIDNAPPING

–HEAD–

#### Sec. 1204. International parental kidnapping

–STATUTE–

(a) Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title or imprisoned not more than 3 years, or both.

(b) As used in this section –

(1) the term "child" means a person who has not attained the age of 16 years; and

(2) the term "parental rights", with respect to a child, means the right to physical custody of the child –

(A) whether joint or sole (and includes visiting rights); and

(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

(c) It shall be an affirmative defense under this section that –

(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody



Jurisdiction Act and was in effect at the time of the offense;

(2) the defendant was fleeing an incidence or pattern of domestic violence;

(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

(d) This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

—SOURCE—

(Added Pub. L. 103–173, Sec. 2(a), Dec. 2, 1993, 107 Stat. 1998.)

—MISC1—

## SENSE OF CONGRESS REGARDING USE OF PROCEDURES UNDER THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL PARENTAL CHILD ABDUCTION

Section 2(b) of Pub. L. 103–173 provided that: "It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of

a child who has been removed from the parent."

—CITE—