

SUBJECT: Enhancement of punishment for kidnapping

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Talton, Garcia, Green, Kitchen, Martinez  
Fischer, Shields

0 nays

1 absent — Keel

WITNESSES: For — *Registered but did not testify*: Bree Buchanan, Texas Council on  
Family Violence

Against — None

On — *Registered but did not testify*: Joe E. McKey, Texas Department of  
Public Safety

BACKGROUND: Penal Code, sec. 20.03 makes it a third-degree felony (punishable by two to  
10 years in prison and an optional fine of up to \$10,000) to intentionally or  
knowingly abduct another person. It is a defense that the abduction was not  
combined with intent to use or threaten to use deadly force, the abductor was  
a relative of the victim, and the abductor's sole intent was to assume lawful  
control of the victim.

Sec. 20.04 makes it a first-degree felony (punishable by life in prison or a  
sentence of five to 99 years and an optional fine of up to \$10,000) to abduct  
someone and use or exhibit a deadly weapon during the abduction or to  
abduct someone with the intent to:

- ! hold a person for ransom or reward;
- ! use a person as a shield or hostage;
- ! ease commission of a felony or flight after attempting or committing a  
felony;
- ! inflict bodily injury on, violate, or abuse a person sexually;
- ! terrorize a person or a third person; or

! interfere with the performance of a governmental or political function.

If the defendant proves by a preponderance of the evidence that he or she voluntarily released the victim in a safe place, the offense is a second-degree felony (punishable by two to 20 years in prison and an optional fine of up to \$10,000).

DIGEST:

HB 141 would amend Penal Code, sec. 20.03 to make kidnapping a second-degree felony if the abductor exposed the victim to a risk of serious bodily injury.

The bill would amend sec. 20.04 to create a first-degree felony for abducting a person to coerce a third person to perform some act, for holding the victim in a condition of involuntary servitude, or for intentionally and knowingly abducting a person who was younger than 17 years of age or incompetent.

This bill would take effect on September 1, 2001, and would apply to offenses committed on or after that date.

SUPPORTERS  
SAY:

Children and incompetent adults are helpless and need more protection than others. They are more likely to be lured into a kidnapper's car or preyed upon by kidnappers. Other parts of the Penal Code already enhance penalties for committing crimes against these groups, so it is appropriate that HB 141 would provide enhanced penalties for kidnapping them. In addition, noncustodial parents who unlawfully abduct their children should be held accountable for their illegal actions.

Kidnapping situations where a chance for bodily harm are enhanced deserve a greater penalty. HB 141 would provide a second-degree felony offense for those who chose to expose their victims to danger. This type of kidnapper shows the potential to be more violent and should be punished more harshly.

When a kidnapper abducts someone to coerce a third person to perform an act, the penalty should be enhanced. Kidnapping to coerce a third party is equivalent to holding the victim for ransom, and HB 141 appropriately would punish the two offenses similarly.

Holding kidnapped persons in a condition of involuntary servitude places them at greater risk. A kidnapper could force the victim to perform any number of tasks, including making the victim commit a crime on the kidnapper's behalf. This type of behavior should be punished severely.

OPPONENTS  
SAY:

HB 141 wrongly would create a special, protected class by enhancing penalties for kidnapping children and incompetent adults. All groups should be treated equally under the law.

This bill could create an excessive penalty for parents who kidnap their own children to get them out of the hands of an abusive ex-spouse. If a mother with custody of a child under age 17 ran away with the child to avoid forcing the child to spend weekends with an abusive ex-husband, she could face up to life in prison under the provisions of this bill. She would land in prison, and the child likely would end up in the custody of the abusive father from whom she was trying to protect the child.