

**THE MICHIGAN PENAL CODE (EXCERPT)**

**Act 328 of 1931**

CHAPTER L

KIDNAPING

**750.349 Kidnapping; "restrain" defined; violation as felony; penalty; other violation arising from same transaction.**

Sec. 349. (1) A person commits the crime of kidnapping if he or she knowingly restrains another person with the intent to do 1 or more of the following:

- (a) Hold that person for ransom or reward.
- (b) Use that person as a shield or hostage.
- (c) Engage in criminal sexual penetration or criminal sexual contact prohibited under chapter LXXVI with that person.
- (d) Take that person outside of this state.
- (e) Hold that person in involuntary servitude.
- (f) Engage in child sexually abusive activity, as that term is defined in section 145c, with that person, if that person is a minor.

(2) As used in this section, "restrain" means to restrict a person's movements or to confine the person so as to interfere with that person's liberty without that person's consent or without legal authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.

(3) A person who commits the crime of kidnapping is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$50,000.00, or both.

(4) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law arising from the same transaction as the violation of this section.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.349;—Am. 2006, Act 159, Eff. Aug. 24, 2006;—Am. 2014, Act 330, Eff. Jan. 14, 2015.

**Former law:** See sections 25 and 26 of Ch. 153 of R.S. 1846, being CL 1857, §§ 5735 and 5736; CL 1871, §§ 7534 and 7535; How., §§ 9099 and 9100; CL 1897, §§ 11494 and 11495; CL 1915, §§ 15216 and 15217; CL 1929, §§ 16732 and 16733; Act 189 of 1859; Act 191 of 1875; and Act 135 of 1889.

**750.349a Prisoner taking person as hostage.**

Sec. 349a. A person imprisoned in any penal or correctional institution located in this state who takes, holds, carries away, decoys, entices away or secretes another person as a hostage by means of threats, coercion, intimidation or physical force is guilty of a felony and shall be imprisoned in the state prison for life, or any term of years, which shall be served as a consecutive sentence.

**History:** Add. 1972, Act 316, Imd. Eff. Jan. 2, 1973.

**750.349b Unlawful imprisonment; circumstances; violation as felony; penalty; definitions; other violation.**

Sec. 349b. (1) A person commits the crime of unlawful imprisonment if he or she knowingly restrains another person under any of the following circumstances:

- (a) The person is restrained by means of a weapon or dangerous instrument.
- (b) The restrained person was secretly confined.
- (c) The person was restrained to facilitate the commission of another felony or to facilitate flight after commission of another felony.

(2) A person who commits unlawful imprisonment is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$20,000.00, or both.

(3) As used in this section:

(a) "Restrain" means to forcibly restrict a person's movements or to forcibly confine the person so as to interfere with that person's liberty without that person's consent or without lawful authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.

(b) "Secretly confined" means either of the following:

- (i) To keep the confinement of the restrained person a secret.
- (ii) To keep the location of the restrained person a secret.

(4) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law that is committed by that person while violating this section.

**History:** Add. 2006, Act 160, Eff. Aug. 24, 2006.

**750.350 Leading, taking, carrying away, decoying, or enticing away child under 14; intent; violation as felony; penalty; adoptive or natural parent.**

Sec. 350. (1) A person shall not maliciously, forcibly, or fraudulently lead, take, carry away, decoy, or entice away, any child under the age of 14 years, with the intent to detain or conceal the child from the child's parent or legal guardian, or from the person or persons who have adopted the child, or from any other person having the lawful charge of the child. A person who violates this section is guilty of a felony, punishable by imprisonment for life or any term of years.

(2) An adoptive or natural parent of the child shall not be charged with and convicted for a violation of this section.

**History:** 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.350;—Am. 1983, Act 138, Eff. Dec. 1, 1983.

**Former law:** See section 30 of Ch. 153 of R.S. 1846, being CL 1857, § 5740; CL 1871, § 7539; How., § 9104; CL 1897, § 11499; CL 1915, § 15221; CL 1929, § 16737; Act 195 of 1885; and Act 95 of 1929.

**750.350a Taking or retaining child by adoptive or natural parent; intent; violation as felony; penalty; restitution for financial expense; effect of pleading or being found guilty; probation; discharge and dismissal; court proceedings open to public; retention of nonpublic record by department of state police; defense.**

Sec. 350a. (1) An adoptive or natural parent of a child shall not take that child, or retain that child for more than 24 hours, with the intent to detain or conceal the child from any other parent or legal guardian of the child who has custody or parenting time rights under a lawful court order at the time of the taking or retention, or from the person or persons who have adopted the child, or from any other person having lawful charge of the child at the time of the taking or retention.

(2) A parent who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day, or a fine of not more than \$2,000.00, or both.

(3) A parent who violates this section, upon conviction, in addition to any other punishment, may be ordered to make restitution to the other parent, legal guardian, the person or persons who have adopted the child, or any other person having lawful charge of the child for any financial expense incurred as a result of attempting to locate and having the child returned.

(4) When a parent who has not been convicted previously of a violation of section 349, 350, or this section, or under any statute of the United States or of any state related to kidnapping, pleads guilty to, or is found guilty of, a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused parent, may defer further proceedings and place the accused parent on probation with lawful terms and conditions. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1084. Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall discharge from probation and dismiss the proceedings against the parent. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including any additional penalties imposed for second or subsequent convictions. There may be only 1 discharge and dismissal under this section as to an individual.

(5) All court proceedings under this section shall be open to the public. Except as provided in subsection (6), if the record of proceedings as to the defendant is deferred under this section, the record of proceedings during the period of deferral shall be closed to public inspection.

(6) Unless the court enters a judgment of guilt under this section, the department of state police shall retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge under this section. However, the nonpublic record shall be open to the following individuals and entities for the purposes noted:

(a) The courts of this state, law enforcement personnel, the department of corrections, and prosecuting attorneys for use only in the performance of their duties or to determine whether an employee of the court, law enforcement agency, department of corrections, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, law enforcement agency, department of corrections, or prosecutor's office.

(b) The courts of this state, law enforcement personnel, and prosecuting attorneys for the purpose of showing either of the following:

(i) That a defendant has already once availed himself or herself of this section.

(ii) Determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(5) of the revised judicature act of 1961, 1961 PA

236, MCL 600.1076.

(c) The department of human services for enforcing child protection laws and vulnerable adult protection laws or ascertaining the preemployment criminal history of any individual who will be engaged in the enforcement of child protection laws or vulnerable adult protection laws.

(7) It is a complete defense under this section if a parent proves that his or her actions were taken for the purpose of protecting the child from an immediate and actual threat of physical or mental harm, abuse, or neglect.

**History:** Add. 1983, Act 138, Eff. Dec. 1, 1983;—Am. 1984, Act 75, Imd. Eff. Apr. 18, 1984;—Am. 1986, Act 193, Eff. Mar. 31, 1987;—Am. 1996, Act 14, Eff. June 1, 1996;—Am. 2004, Act 223, Eff. Jan. 1, 2005;—Am. 2012, Act 548, Eff. Apr. 1, 2013;—Am. 2013, Act 220, Eff. Jan. 1, 2014.