



# Fawkes-Lee & Ryan

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The Honorable Kim Reynolds  
Governor of Iowa  
1007 East Grand Ave.  
Des Moines, IA 50319

Dear Governor Reynolds:

We respectfully request a veto for Senate File 2230 – “An Act relating to kidnapping in the second degree, and providing penalties”, for the following reasons:

The intent of this bill is to amend the crime of kidnapping in the second degree by adding an additional element to the two current components of the statute. The Iowa County Attorneys Association had requested this bill to mend what it considered to be a flaw in the law. However, as you can see, the language of the bill creates a bigger flaw.

In the course of enhancing the penalty for kidnapping a minor from a Class “C” (10 years) offense to a Class “B” (25 years) offense, the drafters omitted a very important piece of criteria. The language should have included language that particularly stated that “a parent or legal guardian” must be the parent or legal guardian of the kidnapped minor. As the bill is written, and sent to you for your signature, any parent – not a parent of the kidnapped minor, just a parent – whose sole purpose is to assume custody of the minor – not legal custody, just custody – is exempt from violating the law.

**710.3 Kidnapping in the second degree.**

1. Kidnapping where the purpose is to hold the victim for ransom, ~~or~~ where the kidnapper is armed with a dangerous weapon, or where the victim is under eighteen years of age other than a kidnapping by a parent or legal guardian whose sole purpose of the kidnapping is to assume custody of a victim under eighteen years of age, is kidnapping in the second degree. Kidnapping in the second degree is a class “B” felony.

The original version of the bill, as [Senate Study Bill 3026](#), did not have the parental exception:

1. Kidnapping where the purpose is to hold the victim for ransom, ~~or~~ where the kidnapper is armed with a dangerous weapon, or where the victim is under eighteen years of age is kidnapping in the second degree. Kidnapping in the second degree is a class "B" felony.

Justice Reform Consortium and others objected to the original bill because there was no exception to cover situations in which a noncustodial parent took the child from a custodial parent, or in instances where the return of the child to a custodial parent took longer than expected or required. Custodial battles should never end in a 50-year sentence for any noncustodial parent. What we didn't expect when language was added to cover our concerns was the creation of a loophole.

Legislation should NOT be advanced if there is a question about whether the language of the bill is ambiguous. This bill is very troublesome and should be rejected. Thank you for your consideration of this request.

Respectfully,

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