

KIDNAPPING

CHARGE • ARREST CALIFORNIA LAW • KIDNAPPING CONVICTION

Kidnap someone and spend life in prison!

Kidnapping Laws

Kidnapping occurs when a person takes, holds or detains another person by using force or fear and moves that person to another place against his or her will. **Kidnapping** is defined by **California Penal Code** Section §207 as: *“Every person who forcibly or by any other means of instilling fear, steals or takes or hold, detains or arrests any person in one county and takes them to another county or state or country.”* This is referred to as simple kidnapping and is punishable in state prison by 3, 5 or 8 years. Kidnapping of minors under the age of 14 is punishable by up to 11 years in state prison. Kidnapping for ransom or robbery (Penal Code 209) is sometimes referred to as aggravated kidnapping and the punishment is life in prison with the possibility of parole. If the victim suffers bodily harm or death then the punishment is life in prison without the possibility of parole.

Kidnapping Charges

Kidnapping is a **serious felony**, which makes it a **“strike”** under California’s Three Strikes Law. The force required in kidnapping need not be physical force; it may be threats of harm. The movement must be substantial, not just trivial or slight movement. The distance required for kidnapping also must be substantial. The law states that in deciding whether the distance is substantial, the judge or jury should consider whether the movement increased the risk of physical or psychological harm to the victim or whether the distance gave the attacker a greater opportunity to commit additional crimes.

Parental Kidnapping

Every year over 200,000 children are taken by a family member, usually a **parent without legal custody**. *(In cases where the parent has child custody, a kidnapping charge would not be appropriate.)* If you are a non-custodial parent accused of **parental kidnapping**, you need an experienced California Criminal Defense Attorney to protect your rights. California Penal Code Section 278 covers the kidnapping or abduction of minors from parents or guardians. Any person who does not have the right of custody and maliciously takes or conceals any minor child with the intent to detain or conceal the child from a person having legal custody, if convicted could spend time in jail and even state prison. Parental kidnapping is a serious charge, but can be charged as a misdemeanor or a felony depending on the circumstances.

Kidnapping Defenses

Often in kidnapping cases, many defenses are possible. The most often seen defenses to this charge are "Consent" and "Lack of Intent." The defendant is not guilty of kidnapping if he reasonably believed the victim consented to the movement. The prosecutor must prove beyond a reasonable doubt that the defendant did not believe the other person (victim) consented to the movement. Failure to prove this by the prosecutor would result in the defendant being found not guilty of kidnapping. Consent as a defense is also common in kidnapping cases. The defendant is not guilty of kidnapping if the other person voluntarily agreed to go with the defendant and was aware of the movement by the defendant. The prosecutor must prove beyond a reasonable doubt that the victim did not consent to go with the defendant. If the prosecutor cannot prove the defendant moved or took the victim against her will then the defendant will be found not guilty of the charges.

Other defenses that can be raised include:

- Insufficient Evidence
- Mistaken Identity
- Lack of Physical Evidence
- Showing a person is legally entrusted with the custody of the kidnapped person
- Proving parents separated without a legal decree, therefore one may take a child from the other (even by deception or trickery) without committing kidnapping.

The specific facts and circumstances of each situation have a huge impact on the nature of the charges, the likelihood of a conviction, and the manner in which a case should be handled. We'll listen to you, discuss the facts of your case and provide you the very best defense possible.

Why You Should Call the Law Offices of Jerry Nicholson:

- We provide a free consultation
- Your defense begins the minute you hire us
- We are available 24 hours a day, 7 days a week
- We know what it will take to successfully handle your case, and we have the resources to do it
- California criminal law changes constantly and we focus exclusively on criminal defense
- We are in court every day interacting with prosecutors and judges, ardently advocating for our clients
- We focus on the presumption of innocence of our clients
- We can discuss bail options and/or release of the accused on their "own recognizance"
- We defend our clients as if we were the defendants being charged
- We are not scared to go to trial to obtain a "Not Guilty" verdict

Serious and Aggressive Criminal Defense

Being accused of kidnapping is a serious charge that can result in a lengthy prison sentence and other serious consequences. Kidnapping charges require a serious and aggressive criminal defense attorney who can get results. We focus exclusively on criminal defense. Our approach to criminal defense includes meticulous preparation, investigation, and an overall aggressive approach to defending our clients