

ENTICING A MINOR AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Criminal Code regarding the offense of enticing a minor.

Highlighted Provisions:

This bill:

- ▶ clarifies that the elements of the offense of enticing a minor do not include intent to complete a sexual offense with a minor; and
- ▶ provides that the penalties for enticing a minor are based on the level of sexual conduct the actor solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure or entice a minor to engage in.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-4-401, as last amended by Laws of Utah 2008, Chapter 342

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-4-401** is amended to read:

76-4-401. Enticing a minor -- Elements -- Penalties.

(1) As used in this section:

(a) "Minor" means a person who is under the age of 18.

(b) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another person's telephone or computer by addressing the communication to the person's telephone number.

(2) (a) A person commits enticement of a minor when the person knowingly uses [~~or attempts to use~~] the Internet or text messaging to solicit, seduce, lure, or entice a minor or

33 attempts to solicit, seduce, lure, or entice a minor or another person that the actor believes to be
34 a minor to engage in any sexual activity which is a violation of state criminal law.

35 (b) A person commits enticement of a minor when the person knowingly uses the
36 Internet or text messaging to:

37 (i) initiate contact with a minor or a person the actor believes to be a minor; and

38 (ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written
39 means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the
40 minor or a person the actor believes to be the minor to engage in any sexual activity which is a
41 violation of state criminal law.

42 (3) It is not a defense to the crime of enticing a minor under Subsection (2), or an
43 attempt to commit this offense, that a law enforcement officer or an undercover operative who
44 is working with a law enforcement agency was involved in the detection or investigation of the
45 offense.

46 (4) ~~[An enticement of a minor]~~ When the sexual activity that the actor is soliciting,
47 seducing, luring, or enticing or attempting to solicit, seduce, lure, or entice under Subsection
48 (2)(a) or (b) ~~[with the intent to commit]~~ is, if engaged in with a minor:

49 (a) a first degree felony, enticement of a minor is a:

50 (i) second degree felony upon the first conviction for violation of this Subsection
51 (4)(a); and

52 (ii) first degree felony punishable by imprisonment for an indeterminate term of not
53 fewer than three years and which may be for life, upon a second or any subsequent conviction
54 for a violation of this Subsection (4)(a);

55 (b) a second degree felony, enticement of a minor is a third degree felony;

56 (c) a third degree felony, enticement of a minor is a class A misdemeanor;

57 (d) a class A misdemeanor, enticement of a minor is a class B misdemeanor; and

58 (e) a class B misdemeanor, enticement of a minor is a class C misdemeanor.

59 (5) (a) When a person who commits a felony violation of this section has been
60 previously convicted of an offense under Subsection (5)(b), the court may not in any way
61 shorten the prison sentence, and the court may not:

62 (i) grant probation;

63 (ii) suspend the execution or imposition of the sentence;

- 64 (iii) enter a judgment for a lower category of offense; or
65 (iv) order hospitalization.
- 66 (b) The sections referred to in Subsection (5)(a) are:
- 67 (i) Section 76-4-401, enticing a minor;
68 (ii) Section 76-5-301.1, child kidnapping;
69 (iii) Section 76-5-402, rape;
70 (iv) Section 76-5-402.1, rape of a child;
71 (v) Section 76-5-402.2, object rape;
72 (vi) Section 76-5-402.3, object rape of a child;
73 (vii) Subsection 76-5-403(2), forcible sodomy;
74 (viii) Section 76-5-403.1, sodomy on a child;
75 (ix) Section 76-5-404, forcible sexual abuse;
76 (x) Section 76-5-404.1, sexual abuse of a child and aggravated sexual abuse of a child;
77 (xi) Section 76-5-405, aggravated sexual assault;
78 (xii) any offense in any other state or federal jurisdiction which constitutes or would
79 constitute a crime in Subsections [~~(4)~~] (5)(b)(i) through (xi); or
80 (xiii) the attempt, solicitation, or conspiracy to commit any of the offenses in
81 Subsections [~~(4)~~] (5)(b)(i) through (xii).