

Part 1 Assault and Related Offenses

76-5-101 "Prisoner" defined.

For purposes of this part "prisoner" means any person who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the Division of Juvenile Justice Services regardless of whether the confinement is legal.

Amended by Chapter 171, 2003 General Session

76-5-102 Assault -- Penalties.

- (1) Assault is:
 - (a) an attempt, with unlawful force or violence, to do bodily injury to another; or
 - (b) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.
- (2) Assault is a class B misdemeanor.
- (3) Assault is a class A misdemeanor if:
 - (a) the person causes substantial bodily injury to another; or
 - (b) the victim is pregnant and the person has knowledge of the pregnancy.
- (4) It is not a defense against assault, that the accused caused serious bodily injury to another.

Amended by Chapter 430, 2015 General Session

76-5-102.3 Assault against school employees.

- (1) Any person who assaults an employee of a public or private school, with knowledge that the individual is an employee, and when the employee is acting within the scope of his authority as an employee, is guilty of a class A misdemeanor.
- (2) As used in this section, "employee" includes a volunteer.

Enacted by Chapter 163, 1992 General Session

76-5-102.4 Assault against peace officer or a military servicemember in uniform -- Penalties.

- (1) As used in this section:
 - (a) "Military servicemember in uniform" means:
 - (i) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or
 - (ii) a member of the National Guard serving as provided in Section 39-1-5 or 39-1-9.
 - (b) "Peace officer" means a law enforcement officer certified under Section 53-13-103.
- (2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3) and (4), who:
 - (a) assaults a peace officer, with knowledge that the person is a peace officer, and when the peace officer is acting within the scope of authority as a peace officer; or
 - (b) assaults a military servicemember in uniform when that servicemember is on orders and acting within the scope of authority granted to the military servicemember in uniform.
- (3) A person who violates Subsection (2) is guilty of a third degree felony if the person:

- (a) has been previously convicted of a class A misdemeanor or a felony violation of this section;
or
 - (b) the person causes substantial bodily injury.
- (4) A person who violates Subsection (2) is guilty of a second degree felony if the person uses:
- (a) a dangerous weapon as defined in Section 76-1-601; or
 - (b) other means or force likely to produce death or serious bodily injury.
- (5) A person who violates this section shall serve, in jail or another correctional facility, a minimum of:
- (a) 90 consecutive days for a second offense; and
 - (b) 180 consecutive days for each subsequent offense.
- (6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.
- (7) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

Amended by Chapter 189, 2014 General Session

76-5-102.5 Assault by prisoner.

Any prisoner who commits assault, intending to cause bodily injury, is guilty of a felony of the third degree.

Enacted by Chapter 32, 1974 General Session

76-5-102.6 Propelling substance or object at a correctional or peace officer -- Penalties.

- (1) Any prisoner or person detained pursuant to Section 77-7-15 who throws or otherwise propels any substance or object at a peace officer, a correctional officer, or an employee or volunteer, including a health care provider, is guilty of a class A misdemeanor, except as provided under Subsection (2).
- (2) A violation of Subsection (1) is a third degree felony if:
- (a) the object or substance is:
 - (i) blood, urine, or fecal material;
 - (ii) an infectious agent as defined in Section 26-6-2 or a material that carries an infectious agent;
 - (iii) vomit or a material that carries vomit; or
 - (iv) the prisoner's or detained person's saliva, and the prisoner or detained person knows he or she is infected with HIV, hepatitis B, or hepatitis C; and
 - (b) the object or substance comes into contact with any portion of the officer's or health care provider's face, including the eyes or mouth, or comes into contact with any open wound on the officer's or health care provider's body.
- (3) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 386, 2015 General Session

76-5-102.7 Assault against health care provider and emergency medical service worker -- Penalty.

- (1) A person who assaults a health care provider or emergency medical service worker is guilty of a class A misdemeanor if:
 - (a) the person is not a prisoner or a person detained under Section 77-7-15;
 - (b) the person knew that the victim was a health care provider or emergency medical service worker; and
 - (c) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault.
- (2) A person who violates Subsection (1) is guilty of a third degree felony if the person:
 - (a) causes substantial bodily injury, as defined in Section 76-1-601; and
 - (b) acts intentionally or knowingly.
- (3) As used in this section:
 - (a) "Emergency medical service worker" means a person certified under Section 26-8a-302.
 - (b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

Amended by Chapter 339, 2016 General Session

76-5-102.8 Disarming a peace officer -- Penalties.

- (1) As used in this section:
 - (a) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.
 - (b) "Firearm" has the same meaning as in Section 76-10-501.
- (2) An actor is guilty of an offense under Subsection (3) who intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from the person or immediate presence of a person the actor knows is a peace officer:
 - (a) without the consent of the peace officer; and
 - (b) while the peace officer is acting within the scope of his authority as a peace officer.
- (3)
 - (a) Conduct under Subsection (2) regarding a firearm is a first degree felony.
 - (b) Conduct under Subsection (2) regarding a conductive energy device is a third degree felony.

Amended by Chapter 222, 2010 General Session

76-5-102.9 Propelling a bodily substance -- Penalties.

- (1) As used in this section, a listed substance or material is:
 - (a) saliva, blood, urine, or fecal material;
 - (b) an infectious agent as defined in Section 26-6-2 of a material that carries an infectious agent;or
 - (c) vomit or a material that carries vomit.
- (2) Any person who knowingly or intentionally throws or otherwise propels any bodily substance or material listed under Subsection (1) at another person is guilty of a class B misdemeanor, except as provided in Subsection (3).
- (3) A violation of this section is a class A misdemeanor if the substance or material propelled is listed in Subsection (1), and:
 - (a) if the substance is the person's saliva, the person knows he or she is infected with HIV, hepatitis B, or hepatitis C; or

- (b) the substance or material comes into contact with any portion of the other person's face, including the eyes or mouth, or comes into contact with any open wound on the other person's body.
- (4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Enacted by Chapter 153, 2013 General Session

76-5-103 Aggravated assault -- Penalties.

(1) Aggravated assault is an actor's conduct:

(a) that is:

- (i) an attempt, with unlawful force or violence, to do bodily injury to another;
- (ii) a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or
- (iii) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and

(b) that includes the use of:

- (i) a dangerous weapon as defined in Section 76-1-601; or
- (ii) other means or force likely to produce death or serious bodily injury.

(2)

(a) A violation of Subsection (1) is a third degree felony, except under Subsection (2)(b).

(b) A violation of Subsection (1) that results in serious bodily injury is a second degree felony.

Amended by Chapter 430, 2015 General Session

76-5-103.5 Aggravated assault by prisoner.

Any prisoner who commits aggravated assault not amounting to a violation of Section 76-3-203.6 is guilty of:

- (1) a second degree felony if no serious bodily injury was intentionally caused; or
- (2) a first degree felony if serious bodily injury was intentionally caused.

Amended by Chapter 102, 2006 General Session

76-5-104 Consensual altercation.

In any prosecution for criminal homicide under Part 2, Criminal Homicide, or assault, it is no defense to the prosecution that the defendant was a party to any duel, mutual combat, or other consensual altercation if during the course of the duel, combat, or altercation any dangerous weapon as defined in Section 76-1-601 was used or if the defendant was engaged in an ultimate fighting match as defined in Section 76-9-705.

Amended by Chapter 83, 1997 General Session

76-5-105 Mayhem.

- (1) Every person who unlawfully and intentionally deprives a human being of a member of his body, or disables or renders it useless, or who cuts out or disables the tongue, puts out an eye, or slits the nose, ear, or lip, is guilty of mayhem.
- (2) Mayhem is a felony of the second degree.

Enacted by Chapter 196, 1973 General Session

76-5-106 Harassment.

- (1) A person is guilty of harassment if, with intent to frighten or harass another, he communicates a written or recorded threat to commit any violent felony.
- (2) Harassment is a class B misdemeanor.

Amended by Chapter 300, 1995 General Session

76-5-106.5 Stalking -- Definitions -- Injunction -- Penalties.

- (1) As used in this section:
 - (a) "Conviction" means:
 - (i) a verdict or conviction;
 - (ii) a plea of guilty or guilty and mentally ill;
 - (iii) a plea of no contest; or
 - (iv) the acceptance by the court of a plea in abeyance.
 - (b) "Course of conduct" means two or more acts directed at or toward a specific person, including:
 - (i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property:
 - (A) directly, indirectly, or through any third party; and
 - (B) by any action, method, device, or means; or
 - (ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:
 - (A) approaches or confronts a person;
 - (B) appears at the person's workplace or contacts the person's employer or coworkers;
 - (C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person;
 - (D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person;
 - (E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or
 - (F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.
 - (c) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months.
 - (d) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.
 - (e) "Reasonable person" means a reasonable person in the victim's circumstances.
 - (f) "Stalking" means an offense as described in Subsection (2) or (3).
 - (g) "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 recipient's telephone number.

- (2) A person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person:
 - (a) to fear for the person's own safety or the safety of a third person; or
 - (b) to suffer other emotional distress.
- (3) A person is guilty of stalking who intentionally or knowingly violates:
 - (a) a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions; or
 - (b) a permanent criminal stalking injunction issued pursuant to this section.
- (4) In any prosecution under this section, it is not a defense that the actor:
 - (a) was not given actual notice that the course of conduct was unwanted; or
 - (b) did not intend to cause the victim fear or other emotional distress.
- (5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.
- (6) Stalking is a class A misdemeanor:
 - (a) upon the offender's first violation of Subsection (2); or
 - (b) if the offender violated a stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions.
- (7) Stalking is a third degree felony if the offender:
 - (a) has been previously convicted of an offense of stalking;
 - (b) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;
 - (c) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;
 - (d) violated a permanent criminal stalking injunction issued pursuant to Subsection (9); or
 - (e) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.
- (8) Stalking is a second degree felony if the offender:
 - (a) used a dangerous weapon as defined in Section 76-1-601 or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;
 - (b) has been previously convicted two or more times of the offense of stalking;
 - (c) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;
 - (d) has been convicted two or more times, in any combination, of offenses under Subsection (7) (a), (b), or (c);
 - (e) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or
 - (f) has been previously convicted of an offense under Subsection (7)(d) or (e).
- (9)
 - (a) A conviction for stalking or a plea accepted by the court and held in abeyance for a period of time serves as an application for a permanent criminal stalking injunction limiting the contact between the defendant and the victim.
 - (b) A permanent criminal stalking injunction shall be issued by the court at the time of the conviction. The court shall give the defendant notice of the right to request a hearing.

- (c) If the defendant requests a hearing under Subsection (9)(b), it shall be held at the time of the conviction unless the victim requests otherwise, or for good cause.
 - (d) If the conviction was entered in a justice court, a certified copy of the judgment and conviction or a certified copy of the court's order holding the plea in abeyance shall be filed by the victim in the district court as an application and request for a hearing for a permanent criminal stalking injunction.
- (10) A permanent criminal stalking injunction shall be issued by the district court granting the following relief where appropriate:
- (a) an order:
 - (i) restraining the defendant from entering the residence, property, school, or place of employment of the victim; and
 - (ii) requiring the defendant to stay away from the victim, except as provided in Subsection (11), and to stay away from any specified place that is named in the order and is frequented regularly by the victim;
 - (b) an order restraining the defendant from making contact with or regarding the victim, including an order forbidding the defendant from personally or through an agent initiating any communication, except as provided in Subsection (11), likely to cause annoyance or alarm to the victim, including personal, written, or telephone contact with or regarding the victim, with the victim's employers, employees, coworkers, friends, associates, or others with whom communication would be likely to cause annoyance or alarm to the victim; and
 - (c) any other orders the court considers necessary to protect the victim and members of the victim's immediate family or household.
- (11) If the victim and defendant have minor children together, the court may consider provisions regarding the defendant's exercise of custody and parent-time rights while ensuring the safety of the victim and any minor children. If the court issues a permanent criminal stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered and that court may modify the injunction to balance the parties' custody and parent-time rights.
- (12) Except as provided in Subsection (11), a permanent criminal stalking injunction may be modified, dissolved, or dismissed only upon application of the victim to the court which granted the injunction.
- (13) Notice of permanent criminal stalking injunctions issued pursuant to this section shall be sent by the court to the statewide warrants network or similar system.
- (14) A permanent criminal stalking injunction issued pursuant to this section has effect statewide.
- (15)
- (a) Violation of an injunction issued pursuant to this section constitutes a third degree felony offense of stalking under Subsection (7).
 - (b) Violations may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.
- (16) This section does not preclude the filing of a criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued pursuant to Title 77, Chapter 3a, Stalking Injunctions, or a permanent criminal stalking injunction.

Amended by Chapter 383, 2012 General Session

76-5-107 Threat of violence -- Penalty.

- (1) A person commits a threat of violence if:

- (a) the person threatens to commit any offense involving bodily injury, death, or substantial property damage, and acts with intent to place a person in fear of imminent serious bodily injury, substantial bodily injury, or death; or
 - (b) the person makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another.
- (2) A violation of this section is a class B misdemeanor.
- (3) It is not a defense under this section that the person did not attempt to or was incapable of carrying out the threat.
- (4) A threat under this section may be express or implied.
- (5) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.
- (6) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 430, 2015 General Session

76-5-107.3 Threat of terrorism -- Penalty.

- (1) A person commits a threat of terrorism if the person threatens to commit any offense involving bodily injury, death, or substantial property damage, and:
- (a)
 - (i) threatens the use of a weapon of mass destruction, as defined in Section 76-10-401; or
 - (ii) threatens the use of a hoax weapon of mass destruction, as defined in Section 76-10-401;or
 - (b) acts with intent to:
 - (i) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;
 - (ii) prevent or interrupt the occupation of a building or a portion of the building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier; or
 - (iii) cause an official or volunteer agency organized to deal with emergencies to take action due to the person's conduct posing a serious and substantial risk to the general public.
- (2)
- (a) A violation of Subsection (1)(a) or (1)(b)(i) is a second degree felony.
 - (b) A violation of Subsection (1)(b)(ii) is a third degree felony.
 - (c) A violation of Subsection (1)(b)(iii) is a class B misdemeanor.
- (3) It is not a defense under this section that the person did not attempt to carry out or was incapable of carrying out the threat.
- (4) A threat under this section may be express or implied.
- (5) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.
- (6) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 39, 2013 General Session

76-5-107.5 Prohibition of "hazing" -- Definitions -- Penalties.

- (1) A person is guilty of hazing if that person intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:
 - (a)
 - (i) endangers the mental or physical health or safety of another;
 - (ii) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
 - (iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or
 - (iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation; and
 - (b)
 - (i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or
 - (ii) if the actor knew that the victim is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.
- (2) It is not a defense to prosecution of hazing that a person under 21, against whom the hazing was directed, consented to or acquiesced in the hazing activity.
- (3) An actor who hazes another is guilty of a:
 - (a) class B misdemeanor except as provided in Subsection (3)(b), (c), (d), or (e);
 - (b) class A misdemeanor if the act involves:
 - (i) the operation or other use of a motor vehicle;
 - (ii) the consumption of an alcoholic product as defined in Section 32B-1-102; or
 - (iii) the consumption of a drug or a substance as defined in Section 76-5-113;
 - (c) third degree felony if the act involves the use of a dangerous weapon as defined in Section 76-1-601;
 - (d) third degree felony if the hazing results in serious bodily injury to a person; or
 - (e) second degree felony if hazing under Subsection (3)(d) involves the use of a dangerous weapon as defined in Section 76-1-601.
- (4) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.
- (5)
 - (a) This section does not apply to military training or other official military activities.
 - (b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.
- (6)
 - (a) A prosecution under this section does not bar a prosecution of the actor for:
 - (i) any other offense for which the actor may be liable as a party for conduct committed by the person hazed; or
 - (ii) any offense, caused in the course of the hazing, that the actor commits against the person who is hazed.
 - (b) Under Subsection (6)(a)(i) a person may be separately punished, both for the hazing offense and the conduct committed by the person hazed.

- (c) Under Subsection (6)(a)(ii) a person may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

Amended by Chapter 340, 2011 General Session

76-5-108 Protective orders restraining abuse of another -- Violation.

- (1) Any person who is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, or ex parte child protective order issued under Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act; Title 78A, Chapter 6, Juvenile Court Act; Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, who intentionally or knowingly violates that order after having been properly served, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
- (2) Violation of an order as described in Subsection (1) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

Amended by Chapter 196, 2013 General Session

76-5-109 Child abuse -- Child abandonment.

- (1) As used in this section:
 - (a) "Child" means a human being who is under 18 years of age.
 - (b)
 - (i) "Child abandonment" means that a parent or legal guardian of a child:
 - (A) intentionally ceases to maintain physical custody of the child;
 - (B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and
 - (C)
 - (I) intentionally fails to provide the child with food, shelter, or clothing;
 - (II) manifests an intent to permanently not resume physical custody of the child; or
 - (III) for a period of at least 30 days:
 - (Aa) intentionally fails to resume physical custody of the child; and
 - (Bb) fails to manifest a genuine intent to resume physical custody of the child.
 - (ii) "Child abandonment" does not include:
 - (A) safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802; or
 - (B) giving legal consent to a court order for termination of parental rights:
 - (I) in a legal adoption proceeding; or
 - (II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.
 - (c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.
 - (d) "Enterprise" is as defined in Section 76-10-1602.
 - (e) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:
 - (i) a bruise or other contusion of the skin;
 - (ii) a minor laceration or abrasion;
 - (iii) failure to thrive or malnutrition; or

- (iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(f).
- (f)
 - (i) "Serious physical injury" means any physical injury or set of injuries that:
 - (A) seriously impairs the child's health;
 - (B) involves physical torture;
 - (C) causes serious emotional harm to the child; or
 - (D) involves a substantial risk of death to the child.
 - (ii) "Serious physical injury" includes:
 - (A) fracture of any bone or bones;
 - (B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;
 - (C) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;
 - (D) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;
 - (E) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;
 - (F) any damage to internal organs of the body;
 - (G) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;
 - (H) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;
 - (I) any conduct that causes a child to cease breathing, even if resuscitation is successful following the conduct; or
 - (J) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life.
- (2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:
 - (a) if done intentionally or knowingly, the offense is a felony of the second degree;
 - (b) if done recklessly, the offense is a felony of the third degree; or
 - (c) if done with criminal negligence, the offense is a class A misdemeanor.
- (3) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:
 - (a) if done intentionally or knowingly, the offense is a class A misdemeanor;
 - (b) if done recklessly, the offense is a class B misdemeanor; or
 - (c) if done with criminal negligence, the offense is a class C misdemeanor.
- (4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:
 - (a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or
 - (b) guilty of a felony of the second degree, if, as a result of the child abandonment:
 - (i) the child suffers a serious physical injury; or
 - (ii) the person or enterprise receives, directly or indirectly, any benefit.
- (5)
 - (a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).

- (b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, Forfeiture and Disposition of Property Act.
- (6) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to have committed an offense under this section.
- (7) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.
- (8) A person is not guilty of an offense under this section for conduct that constitutes:
 - (a) reasonable discipline or management of a child, including withholding privileges;
 - (b) conduct described in Section 76-2-401; or
 - (c) the use of reasonable and necessary physical restraint or force on a child:
 - (i) in self-defense;
 - (ii) in defense of others;
 - (iii) to protect the child; or
 - (iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (8)(c)(i) through (iii).

Amended by Chapter 258, 2015 General Session

76-5-109.1 Commission of domestic violence in the presence of a child.

- (1) As used in this section:
 - (a) "Cohabitant" has the same meaning as defined in Section 78B-7-102.
 - (b) "Domestic violence" has the same meaning as in Section 77-36-1.
 - (c) "In the presence of a child" means:
 - (i) in the physical presence of a child; or
 - (ii) having knowledge that a child is present and may see or hear an act of domestic violence.
- (2) A person commits domestic violence in the presence of a child if the person:
 - (a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201, against a cohabitant in the presence of a child; or
 - (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon, as defined in Section 76-1-601, or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; or
 - (c) under circumstances not amounting to a violation of Subsection (2)(a) or (b), commits an act of domestic violence in the presence of a child.
- (3)
 - (a) A person who violates Subsection (2)(a) or (b) is guilty of a third degree felony.
 - (b) A person who violates Subsection (2)(c) is guilty of a class B misdemeanor.
- (4) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence where the victim is the cohabitant. Either or both charges may be filed by the prosecutor.
- (5) A person who commits a violation of this section when more than one child is present is guilty of one offense of domestic violence in the presence of a child regarding each child present when the violation occurred.

Amended by Chapter 70, 2009 General Session

76-5-110 Abuse or neglect of a child with a disability.

- (1) As used in this section:
 - (a) "Abuse" means:
 - (i) inflicting physical injury, as that term is defined in Section 76-5-109;
 - (ii) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury, as that term is defined in Section 76-5-109; or
 - (iii) unreasonable confinement.
 - (b) "Caretaker" means:
 - (i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or
 - (ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.
 - (c) "Child with a disability" means any person under 18 years of age who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.
 - (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.
- (2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child with a disability is guilty of a third degree felony.
- (3)
 - (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to be in violation under this section.
 - (b) Subject to Subsection 78A-6-117(2)(n)(iii), the exception under Subsection (3)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.
 - (c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

Amended by Chapter 366, 2011 General Session

76-5-111 Abuse, neglect, or exploitation of a vulnerable adult -- Penalties.

- (1) As used in this section:
 - (a) "Abandonment" means a knowing or intentional action or inaction, including desertion, by a person or entity acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.
 - (b) "Abuse" means:
 - (i) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;
 - (ii) causing physical injury by knowing or intentional acts or omissions;

- (iii) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the adult; or
- (iv) deprivation of life-sustaining treatment, except:
 - (A) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or
 - (B) when informed consent, as defined in this section, has been obtained.
- (c) "Business relationship" means a relationship between two or more individuals or entities where there exists an oral or written agreement for the exchange of goods or services.
- (d)
 - (i) "Caretaker" means any person, entity, corporation, or public institution that assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, or other necessities.
 - (ii) "Caretaker" includes a relative by blood or marriage, a household member, a person who is employed or who provides volunteer work, or a person who contracts or is under court order to provide care.
- (e) "Deception" means:
 - (i) a misrepresentation or concealment:
 - (A) of a material fact relating to services rendered, disposition of property, or use of property intended to benefit a vulnerable adult;
 - (B) of the terms of a contract or agreement entered into with a vulnerable adult; or
 - (C) relating to the existing or preexisting condition of any property involved in a contract or agreement entered into with a vulnerable adult; or
 - (ii) the use or employment of any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.
- (f) "Elder adult" means a person 65 years of age or older.
- (g) "Endeavor" means to attempt or try.
- (h) "Exploitation" means an offense described in Subsection (4) or Section 76-5b-202.
- (i) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.
- (j) "Informed consent" means:
 - (i) a written expression by the person or authorized by the person, stating that the person fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the person desires that the services be withdrawn. A written expression is valid only if the person is of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or
 - (ii) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.
- (k) "Intimidation" means communication conveyed through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or harm.
- (l)
 - (i) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person by:

- (A) preventing the vulnerable adult from receiving visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, including communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;
 - (B) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or
 - (C) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.
- (ii) The term "isolation" does not include an act intended to protect the physical or mental welfare of the vulnerable adult or an act performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.
- (m) "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the adult's person or property.
- (n) "Neglect" means:
- (i) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;
 - (ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;
 - (iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;
 - (iv) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or
 - (v) abandonment by a caretaker.
- (o) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition. "Physical injury" includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.
- (p) "Position of trust and confidence" means the position of a person who:
- (i) is a parent, spouse, adult child, or other relative by blood or marriage of a vulnerable adult;
 - (ii) is a joint tenant or tenant in common with a vulnerable adult;
 - (iii) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, or conservator; or
 - (iv) is a caretaker of a vulnerable adult.
- (q) "Serious physical injury" means any physical injury or set of physical injuries that:
- (i) seriously impairs a vulnerable adult's health;
 - (ii) was caused by use of a dangerous weapon as defined in Section 76-1-601;
 - (iii) involves physical torture or causes serious emotional harm to a vulnerable adult; or
 - (iv) creates a reasonable risk of death.

- (r) "Undue influence" occurs when a person uses the person's role, relationship, or power to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult, or uses the person's role, relationship, or power to gain control deceptively over the decision making of the vulnerable adult.
- (s) "Vulnerable adult" means an elder adult, or an adult 18 years of age or older who has a mental or physical impairment which substantially affects that person's ability to:
 - (i) provide personal protection;
 - (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
 - (iii) obtain services necessary for health, safety, or welfare;
 - (iv) carry out the activities of daily living;
 - (v) manage the adult's own resources; or
 - (vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.
- (2) Under any circumstances likely to produce death or serious physical injury, any person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:
 - (a) if done intentionally or knowingly, the offense is a second degree felony;
 - (b) if done recklessly, the offense is third degree felony; and
 - (c) if done with criminal negligence, the offense is a class A misdemeanor.
- (3) Under circumstances other than those likely to produce death or serious physical injury any person, including a caretaker, who causes a vulnerable adult to suffer harm, abuse, or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of abuse of a vulnerable adult as follows:
 - (a) if done intentionally or knowingly, the offense is a class A misdemeanor;
 - (b) if done recklessly, the offense is a class B misdemeanor; and
 - (c) if done with criminal negligence, the offense is a class C misdemeanor.
- (4)
 - (a) A person commits the offense of exploitation of a vulnerable adult when the person:
 - (i) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult;
 - (ii) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of his property for the benefit of someone other than the vulnerable adult;
 - (iii) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;
 - (iv) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult; or

- (v) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity.
- (b) A person is guilty of the offense of exploitation of a vulnerable adult as follows:
 - (i) if done intentionally or knowingly and the aggregate value of the resources used or the profit made is or exceeds \$5,000, the offense is a second degree felony;
 - (ii) if done intentionally or knowingly and the aggregate value of the resources used or the profit made is less than \$5,000 or cannot be determined, the offense is a third degree felony;
 - (iii) if done recklessly, the offense is a class A misdemeanor; or
 - (iv) if done with criminal negligence, the offense is a class B misdemeanor.
- (5) It does not constitute a defense to a prosecution for any violation of this section that the accused did not know the age of the victim.
- (6) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Amended by Chapter 320, 2011 General Session

76-5-111.1 Reporting requirements -- Investigation -- Immunity -- Violation -- Penalty -- Physician-patient privilege -- Nonmedical healing.

- (1) As provided in Section 62A-3-305, any person who has reason to believe that any vulnerable adult has been the subject of abuse, neglect, or exploitation shall immediately notify the nearest peace officer, law enforcement agency, or Adult Protective Services intake within the Department of Human Services, Division of Aging and Adult Services.
- (2) Anyone who makes that report in good faith to a law enforcement agency, the Division of Aging and Adult Services, or Adult Protective Services of suspected abuse, neglect, or exploitation is immune from civil and criminal liability in connection with the report or other notification.
- (3)
 - (a) When the initial report is made to a peace officer or law enforcement agency, the officer or law enforcement agency shall immediately notify Adult Protective Services intake. Adult Protective Services and law enforcement shall coordinate, as appropriate, their investigations and provide protection to the vulnerable adult as necessary.
 - (b) Adult Protective Services will notify the Long-Term Care Ombudsman, as defined in Section 62A-3-202, when the initial report to Adult Protective Services involves a resident of a long-term care facility as defined in Section 62A-3-202. The Long-Term Care Ombudsman and Adult Protective Services shall coordinate, as appropriate, in conducting their investigations.
 - (c) When the initial report or subsequent investigation by Adult Protective Services indicates that a criminal offense may have occurred against a vulnerable adult, Adult Protective Services shall immediately notify the nearest local law enforcement agency. That law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.
- (4) A person who is required to report suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1), and who willfully fails to do so, is guilty of a class B misdemeanor.
- (5) Under circumstances not amounting to a violation of Section 76-8-508, a person who threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report, a witness, the person who made the report, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a class B misdemeanor.
- (6) The physician-patient privilege does not constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of those injuries, in any judicial or administrative proceeding resulting from a report made in good faith pursuant to this part.

- (7) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Amended by Chapter 50, 2004 General Session

76-5-112 Reckless endangerment -- Penalty.

- (1) A person commits reckless endangerment if, under circumstances not amounting to a felony offense, the person recklessly engages in conduct that creates a substantial risk of death or serious bodily injury to another person.
- (2) Reckless endangerment is a class A misdemeanor.

Enacted by Chapter 66, 1999 General Session

76-5-112.5 Endangerment of a child or vulnerable adult.

- (1) As used in this section:
- (a)
- (i) "Chemical substance" means:
- (A) a substance intended to be used as a precursor in the manufacture of a controlled substance;
- (B) a substance intended to be used in the manufacture of a controlled substance; or
- (C) any fumes or by-product resulting from the manufacture of a controlled substance.
- (ii) Intent under this Subsection (1)(a) may be demonstrated by:
- (A) the use, quantity, or manner of storage of the substance; or
- (B) the proximity of the substance to other precursors or to manufacturing equipment.
- (b) "Child" means a human being who is under 18 years of age.
- (c) "Controlled substance" is as defined in Section 58-37-2.
- (d) "Drug paraphernalia" is as defined in Section 58-37a-3.
- (e) "Exposed to" means that the child or vulnerable adult:
- (i) is able to access or view an unlawfully possessed:
- (A) controlled substance; or
- (B) chemical substance;
- (ii) has the reasonable capacity to access drug paraphernalia; or
- (iii) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.
- (f) "Prescription" is as defined in Section 58-37-2.
- (g) "Vulnerable adult" is as defined in Subsection 76-5-111(1).
- (2) Unless a greater penalty is otherwise provided by law:
- (a) except as provided in Subsection (2)(b) or (c), a person is guilty of a felony of the third degree if the person knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia;
- (b) except as provided in Subsection (2)(c), a person is guilty of a felony of the second degree, if:
- (i) the person engages in the conduct described in Subsection (2)(a); and
- (ii) as a result of the conduct described in Subsection (2)(a), a child or a vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury; or
- (c) a person is guilty of a felony of the first degree, if:
- (i) the person engages in the conduct described in Subsection (2)(a); and
- (ii) as a result of the conduct described in Subsection (2)(a), a child or a vulnerable adult dies.

- (3) It is an affirmative defense to a violation of this section that the controlled substance:
 - (a) was obtained by lawful prescription; and
 - (b) is used or possessed by the person to whom it was lawfully prescribed.
- (4) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

Amended by Chapter 320, 2011 General Session

76-5-113 Surreptitious administration of certain substances -- Definitions -- Penalties -- Defenses.

- (1) As used in this section:
 - (a) "Administer" means the introduction of a substance into the body by injection, inhalation, ingestion, or by any other means.
 - (b) "Alcoholic beverage" has the same meaning as "alcoholic beverage" in Section 32B-1-102.
 - (c) "Bodily injury" has the same definition as in Section 76-1-601.
 - (d) "Controlled substance" has the same definition as in Section 58-37-2.
 - (e) "Deleterious substance" means a substance which, if administered, would likely cause bodily injury.
 - (f) "Poisonous" means a substance which, if administered, would likely cause serious bodily injury or death.
 - (g) "Prescription drug" has the same definition as in Section 58-17b-102.
 - (h) "Serious bodily injury" has the same definition as in Section 19-2-115.
 - (i) "Substance" means a controlled substance, poisonous substance, or deleterious substance as defined in this Subsection (1).
- (2) In addition to any other offense the actor's conduct may constitute, it is a criminal offense for a person, surreptitiously or by means of fraud, deception, or misrepresentation, to cause another person to unknowingly consume or receive the administration of:
 - (a) any poisonous, deleterious, or controlled substance; or
 - (b) any alcoholic beverage.
- (3) A violation of Subsection (2) is:
 - (a) a second degree felony if the substance is a poisonous substance, regardless of whether the substance is a controlled substance or a prescription drug;
 - (b) a third degree felony if the substance is not within the scope of Subsection (3)(a), and is a controlled substance or a prescription drug; and
 - (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic beverage.
- (4)
 - (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:
 - (i) provided the appropriate administration of a prescription drug; and
 - (ii) acted on the reasonable belief that the actor's conduct was in the best interest of the well-being of the person to whom the prescription drug was administered.
 - (b)
 - (i) The defendant shall file and serve on the prosecuting attorney a notice in writing of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the trial.
 - (ii) The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses the defendant proposes to examine to establish the defense.
 - (c) The prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses the prosecutor proposes to examine in order to

contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a). This notice shall be filed or served not more than 10 days after receipt of the defendant's notice under Subsection (4)(b), or at another time as the court may direct.

(d)

- (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c) entitles the opposing party to a continuance to allow for preparation.
 - (ii) If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.
- (5) This section does not diminish the scope of authorized health care by a health care provider as defined in Section 26-23a-1.

Amended by Chapter 276, 2010 General Session