

Part 7 Miscellaneous Provisions

76-9-701 Intoxication -- Release of arrested person or placement in detoxification center.

- (1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.
- (2)
 - (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes imprisonment is unnecessary for the protection of the person or another.
 - (b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.
- (3)
 - (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:
 - (i) order the minor to complete a screening as defined in Section 41-6a-501;
 - (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
 - (iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.
 - (b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:
 - (i) order the minor to complete a screening as defined in Section 41-6a-501;
 - (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
 - (iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance abuse treatment as indicated by an assessment.
- (4)
 - (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.
 - (b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:
 - (i) the violation is the minor's first violation of this section; and
 - (ii)
 - (A) the minor completes an educational series as defined in Section 41-6a-501; or
 - (B) the minor demonstrates substantial progress in substance abuse treatment.
 - (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:
 - (i) the violation is the minor's second or subsequent violation of this section;
 - (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and
 - (iii)

- (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or
 - (B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).
- (5) When a person who is at least 13 years old, but younger than 18 years old, is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78A-6-606 apply to the violation.
- (6) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.
- (7) An offense under this section is a class C misdemeanor.

Amended by Chapter 165, 2015 General Session

76-9-702 Lewdness.

- (1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years of age or older:
- (a) an act of sexual intercourse or sodomy;
 - (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;
 - (c) masturbates; or
 - (d) any other act of lewdness.
- (2)
- (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).
 - (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:
 - (i) the person is a sex offender as defined in Section 77-27-21.7;
 - (ii) the person has been previously convicted two or more times of violating Subsection (1); or
 - (iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.
 - (c)
 - (i) For purposes of this Subsection (2) and Subsection 77-41-102(17), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
 - (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Amended by Chapter 210, 2015 General Session

76-9-702.1 Sexual battery.

- (1) A person is guilty of sexual battery if the person, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.
- (2) Offenses referred to in Subsection (1) are:
 - (a) rape, Section 76-5-402;
 - (b) rape of a child, Section 76-5-402.1;
 - (c) object rape, Section 76-5-402.2;
 - (d) object rape of a child, Section 76-5-402.3;
 - (e) forcible sodomy, Subsection 76-5-403(2);
 - (f) sodomy on a child, Section 76-5-403.1;
 - (g) forcible sexual abuse, Section 76-5-404;
 - (h) sexual abuse of a child, Subsection 76-5-404.1(2);
 - (i) aggravated sexual abuse of a child, Subsection 76-5-404.1(4);
 - (j) aggravated sexual assault, Section 76-5-405; and
 - (k) an attempt to commit any offense under this Subsection (2).
- (3) Sexual battery is a class A misdemeanor.
- (4) For purposes of Subsection 77-41-102(17) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Amended by Chapter 210, 2015 General Session

76-9-702.3 Public urination.

- (1) A person is guilty of public urination if the person urinates or defecates:
 - (a) in a public place, other than a public rest room; and
 - (b) under circumstances which the person should know will likely cause affront or alarm to another.
- (2) Public urination is an infraction.

Amended by Chapter 303, 2016 General Session

76-9-702.5 Lewdness involving a child.

- (1) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly does any of the following to, or in the presence of, a child who is under 14 years of age:
 - (a) performs an act of sexual intercourse or sodomy;
 - (b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area:
 - (i) in a public place; or
 - (ii) in a private place:
 - (A) under circumstances the person should know will likely cause affront or alarm; or
 - (B) with the intent to arouse or gratify the sexual desire of the actor or the child;

- (c) masturbates;
 - (d) under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201, causes a child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or
 - (e) performs any other act of lewdness.
- (2)
- (a) Lewdness involving a child is a class A misdemeanor, except under Subsection (2)(b).
 - (b) Lewdness involving a child is a third degree felony if at the time of the violation:
 - (i) the person is a sex offender as defined in Section 77-27-21.7; or
 - (ii) the person has previously been convicted of a violation of this section.

Amended by Chapter 278, 2013 General Session

76-9-702.7 Voyeurism offenses -- Penalties.

- (1) A person is guilty of voyeurism who intentionally uses a camcorder, motion picture camera, photographic camera of any type, or other equipment that is concealed or disguised to secretly or surreptitiously videotape, film, photograph, record, or view by electronic means an individual:
 - (a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;
 - (b) without the knowledge or consent of the individual; and
 - (c) under circumstances in which the individual has a reasonable expectation of privacy.
- (2) A violation of Subsection (1) is a class A misdemeanor, except that a violation of Subsection (1) committed against a child under 14 years of age is a third degree felony.
- (3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.
- (4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:
 - (a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;
 - (b) without the knowledge or consent of the individual; and
 - (c) under circumstances in which the individual has a reasonable expectation of privacy.
- (5) A violation of Subsection (4) is a class B misdemeanor, except that a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor.

Amended by Chapter 52, 2004 General Session

76-9-704 Abuse or desecration of a dead human body -- Penalties.

- (1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section 9-8-302.
- (2) A person is guilty of abuse or desecration of a dead human body if the person intentionally and unlawfully:
 - (a) fails to report the finding of a dead human body to a local law enforcement agency;

- (b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of it;
 - (c) disinters a buried or otherwise interred dead human body, without authority of a court order;
 - (d) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or
 - (e)
 - (i) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body; and
 - (ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.
- (3) A person does not violate this section if when that person directs or carries out procedures regarding a dead human body, that person complies with:
- (a) Title 9, Chapter 8, Part 3, Antiquities;
 - (b) Title 26, Chapter 4, Utah Medical Examiner Act;
 - (c) Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;
 - (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;
 - (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
 - (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.
- (4)
- (a) Failure to report the finding of a dead human body as required under Subsection (2)(a) is a class B misdemeanor.
 - (b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through (e) is a third degree felony.

Amended by Chapter 60, 2007 General Session
Amended by Chapter 231, 2007 General Session

76-9-705 Participation in an ultimate fighting match.

- (1) For purposes of this section, "ultimate fighting match" means a live match in which:
- (a) an admission fee is charged;
 - (b) match rules permit professional contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques; and
 - (c) match rules do not:
 - (i) incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;
 - (ii) divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or
 - (iii) prohibit contestants from:
 - (A) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;
 - (B) striking a person who demonstrates an inability to protect himself from the advances of an opponent;
 - (C) biting; or
 - (D) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the neck, and temple area of the head.

- (2) Any person who publicizes, promotes, conducts, or engages in an ultimate fighting match is guilty of a class A misdemeanor.

Enacted by Chapter 83, 1997 General Session

76-9-706 False representation of military award -- False wearing or use of medal, name, title, insignia, ritual, or ceremony of a military related organization.

(1) As used in this section:

(a) "Military related organization" means a public or private society, order, or organization that:

(i) only accepts as a member, a person, or the relative of a person, who is:

(A) a member of the military; or

(B) an honorably discharged member of the military; and

(ii) is organized for the purpose of:

(A) recognizing or honoring a person for military service;

(B) assisting a person described in Subsection (1)(a)(i) to lawfully associate with, or provide service with, other people described in Subsection (1)(a)(i); or

(C) provide support for, or assistance to, a person described in Subsection (1)(a)(i).

(b) "Service medal" means:

(i) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);

(ii) a distinguished service cross, as defined in 10 U.S.C. 3742;

(iii) a Navy cross, as defined in 10 U.S.C. 6242;

(iv) an Air Force cross, as defined in 10 U.S.C. 8742;

(v) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;

(vi) a bronze star, as defined in 10 U.S.C. 1133;

(vii) a purple heart, as defined in 10 U.S.C. 1129;

(viii) any decoration or medal authorized by the Congress of the United States for the armed forces of the United States;

(ix) any service medal or badge awarded to members of the armed forces of the United States;

(x) any of the following Utah National Guard medals or ribbons:

(A) medal of valor;

(B) Utah cross;

(C) joint medal of merit;

(D) Utah medal of merit;

(E) joint commendation medal;

(F) commendation medal;

(G) achievement ribbon;

(H) joint staff service ribbon;

(I) state partnership service ribbon;

(J) service ribbon;

(K) military funeral honors service ribbon;

(L) emergency service ribbon; or

(M) recruiting ribbon;

(xi) any ribbon, button, or rosette for a decoration, medal, or badge described in Subsections (1)(b)(i) through (x); or

(xii) an imitation of a decoration, medal, badge, ribbon, button, or rosette described in Subsections (1)(b)(i) through (xi).

- (2) Any person who intentionally makes a false representation, verbally or in writing, that the person has been awarded a service medal is guilty of an infraction.

- (3) Any person who wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barter, or exchanges for anything of value a service medal, or any colorable imitation thereof, except when authorized by federal law, or under regulations made pursuant to federal law, with the intent to defraud, or with the intent to falsely represent that the person or another person has been awarded a service medal, is guilty of an infraction.
- (4) A person is guilty of an infraction if the person wears or uses a medal of a military related organization:
 - (a) that the person is not entitled to wear or use; and
 - (b) with the intent to defraud or with the intent to falsely represent that the person or another person has been awarded the medal.
- (5) A person is guilty of an infraction if the person uses the name, an officer title, an insignia, a ritual, or a ceremony of a military related organization:
 - (a) that the person is not entitled to use; and
 - (b) with the intent to defraud, or with the intent to falsely represent that the person or another person was or is a member, representative, or officer of the military related organization.

Amended by Chapter 303, 2016 General Session