

Representative Perry L. Buckner proposes to substitute the following bill:

PENALTY FOR HARBORING A FUGITIVE

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Perry L. Buckner

AN ACT RELATING TO CRIMINAL LAW; AMENDING THE PENALTIES FOR
HARBORING, CONCEALING, OR AIDING A JUVENILE OR ADULT OFFENDER ^h ; **AND**
AMENDING THE DEFINITION OF ABSCONDING ^h .

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

62A-7-106, as enacted by Chapter 1, Laws of Utah 1988

76-8-306, as last amended by Chapter 51, Laws of Utah 1995

^h 76-8-309.5, as last amended by Chapter 311, Laws of Utah 1997 ^h

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

Section 1. Section **62A-7-106** is amended to read:

62A-7-106. Aiding or concealing youth offender -- Trespass -- Criminal penalties.

(1) A person who commits any of the following offenses is guilty of a class A misdemeanor:

~~§ [(1)] (a) willfully aiding or assisting a youth offender who has been lawfully committed to a secure facility, in escaping or attempting to escape from that facility;~~ §

~~[(2) knowingly concealing a youth offender after his escape from a secure facility;~~

~~[(3) § [(b)] (a) § entering, or attempting to enter, a building or enclosure appropriated to the use of youth offenders, without permission;~~

~~[(4) § [(c)] (b) § entering any premises belonging to a secure facility and committing or attempting to commit a trespass or depredation on those premises; or~~

~~[(5) § [(d)] (c) § willfully annoying or disturbing the peace and quiet of a secure facility or of a youth offender in a secure facility.~~

(2) A person is guilty of a third degree felony who § :

(a) § knowingly harbors or conceals a youth

26 offender who has:

27 § ~~[(a)]~~ (i) § escaped from a secure facility; or

28 § ~~[(b)]~~ (ii) § absconded from:

29 § ~~[(f)]~~ (A) § a facility or supervision, as these offenses are defined in ~~h~~ [Section]

29a **SUBSECTIONS** ~~h~~

29a 76-8-309.5 ~~h~~ (1) AND (2) ~~h~~ ; or

30 § ~~[(ii)]~~ (B) § ~~h~~ from ~~h~~ supervision of the Division of Youth Corrections § ~~[:]~~ ; OR

30a **(b) WILLFULLY AIDED OR ASSISTED A YOUTH OFFENDER WHO HAS BEEN LAWFULLY**

30b **COMMITTED TO A SECURE FACILITY IN ESCAPING OR ATTEMPTING TO ESCAPE FROM THAT**

30c **FACILITY.** §

31 Section 2. Section **76-8-306** is amended to read:

32 **76-8-306. Obstructing justice.**

33 (1) A person is guilty of an offense if, with intent to hinder, prevent, or delay the
34 discovery, apprehension, prosecution, conviction, or punishment of § [f] **another** ~~[-an offender]~~ §
34a for the

35 commission of a crime, he:

36 (a) knowing an offense has been committed, conceals it from a magistrate;

37 (b) harbors or conceals the offender;

38 (c) provides the offender a weapon~~[:]~~;

39 (d) provides the offender transportation, disguise, or other means for avoiding discovery
40 or apprehension;

41 ~~[(d)]~~ (e) warns the offender of impending discovery or apprehension;

42 ~~[(e)]~~ (f) conceals, destroys, or alters any physical evidence that might aid in the discovery,
43 apprehension, or conviction of the ~~[person]~~ offender;

44 ~~[(f)]~~ (g) obstructs by force, intimidation, or deception anyone from performing an act that
45 might aid in the discovery, apprehension, prosecution, or conviction of the ~~[person]~~ offender; or

46 ~~[(g)]~~ (h) having knowledge that a law enforcement officer has been authorized or has
47 applied for authorization under either Section 77-23a-10 or 77-23a-15 to intercept a wire,
48 electronic, or oral communication, gives notice or attempts to give notice of the possible
49 interception to any person.

50 (2) ~~[An]~~ Except as provided under Subsection (3), an offense under [Subsections]:

51 (a) Subsection (1)(a) or Subsections (d) through [(f)] (g) is a class B misdemeanor~~[-unless~~
52 ~~the actor];~~

53 (b) Subsection (1)(b) regarding harboring or concealing the offender is a class A
54 misdemeanor § **EXCEPT AS PROVIDED IN SUBSECTION (6)** § ; and

55 (c) Subsection (1)(c) regarding providing a weapon is a third degree felony.

56 (3) (a) If the person committing an offense under Subsection (1)(a) or Subsections (1)(d)

57 through (g) knows that the offender has committed a second or third degree felony, the offense is
 58 a class A misdemeanor.

59 (b) If the person committing an offense under Subsection (1)(b) regarding harboring or
 60 concealing the offender knows the offender has committed a second or third degree felony, the
 61 offense is a third degree felony.

62 (c) If the person committing an offense under Subsection (1)(c) regarding providing a
 63 weapon knows the offender has committed a second or third degree felony, the offense is a second
 64 degree felony.

65 (d) If the person committing an offense under Subsections (1)(a) through (g) knows the
 66 offender has committed a capital offense or a felony of the first degree, [in which case] the offense
 67 is a second degree felony.

68 ~~[(3)]~~ (4) An offense under Subsection (1)~~[(g)]~~(h) is a third degree felony.

69 ~~[(4)]~~ (5) Subsection (1)(f) does not apply to an act against a juror. Obstructing the function
 70 of a juror is addressed in Section 76-8-508.5.

71 (6) A person is guilty of a third degree felony who § :

71a (a) § harbors or conceals an offender who

72 has absconded from a facility or from supervision as these offenses are defined in Section

73 76-8-309.5 § [-] ; OR

73a **(b) HAS ESCAPED FROM OFFICIAL CUSTODY AS DEFINED IN SECTION 76-8-309. §**

74 ~~[(5)]~~ (7) The provisions of Section 76-8-316 ~~[shall]~~ govern an act or threat against a judge
 75 or a member of the Board of Pardons and Parole or the judge's or member's immediate family.

75a **h Section 3. Section 76-8-309.5 is amended to read:**

75b **76-8-309.5. Absconding.**

75c **(1) An offender absconds from a facility when he:**

75d **(a) leaves the facility without permission; or**

75e **(b) fails to return at a prescribed time.**

75f **(2) An offender absconds from supervision when he [willfully]:**

75g **(a) changes HIS RESIDENCE FROM the residence that he reported as his correct address TO**
 75h **ANOTHER RESIDENCE, without notifying his parole officer or obtaining permission[-]; OR**

75i **(b) FOR THE PURPOSE OF AVOIDING SUPERVISION:**

75j **(i) HIDES AT A DIFFERENT LOCATION FROM HIS REPORTED RESIDENCE; OR**

75k **(ii) LEAVES HIS REPORTED RESIDENCE.**

75l **(3) Absconding is a third degree felony.**

75m **(4) For the purposes of this section:**

75n (a) "Facility" means a residential facility owned, operated, leased, or contracted by the
75o Department of Corrections or a county to provide housing, programming, or treatment of h

75p ^h individuals who have been placed on parole.

75q (b) "Offender" means a person who has been convicted of a crime and has been:

75r (i) sent to a facility;

75s (ii) placed on parole under condition that he report to a parole officer on a regular basis or
75t that he serve periods of confinement during his parole period or that he attend classes or treatment
as

75u a condition of parole; or

75v (iii) released for a period during confinement for work, school, treatment, or other temporary

75w nonconfinement purposes. ^h