

**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; AND AMENDING THE DEFINITION OF ABSCONDING.

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

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

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

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

~~[(5)]~~ (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 offender who has:

(i) escaped from a secure facility; or

(ii) absconded from:

(A) a facility or supervision, as these offenses are defined in Subsections 76-8-309.5(1) and (2); or

(B) supervision of the Division of Youth Corrections; or

(b) willfully aided or assisted a youth offender who has been lawfully committed to a secure facility in escaping or attempting to escape from that facility.

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

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

(1) A person is guilty of an offense if, with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime, he:

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

(b) harbors or conceals the offender;

(c) provides the offender a weapon[;];

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

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

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

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

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

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

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

(b) Subsection (1)(b) regarding harboring or concealing the offender is a class A misdemeanor, except as provided in Subsection (6); and

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

(3) (a) If the person committing an offense under Subsection (1)(a) or Subsections (1)(d) through (g) knows that the offender has committed a second or third degree felony, the offense is a class A misdemeanor.

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

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

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

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

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

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

(a) harbors or conceals an offender who has absconded from a facility or from supervision as these offenses are defined in Section 76-8-309.5; or

(b) has escaped from official custody as defined in Section 76-8-309.

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

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

**76-8-309.5. Absconding -- Definitions -- Penalty.**

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

- (a) leaves the facility without permission; or
- (b) fails to return at a prescribed time.

(2) An offender absconds from supervision when he ~~[willfully]~~:

- (a) changes his residence from the residence that he reported as his correct address to another

residence, without notifying his parole officer or obtaining permission[-]; or

(b) for the purpose of avoiding supervision:

(i) hides at a different location from his reported residence; or

(ii) leaves his reported residence.

(3) Absconding is a third degree felony.

(4) For the purposes of this section:

(a) "Facility" means a residential facility owned, operated, leased, or contracted by the Department of Corrections or a county to provide housing, programming, or treatment of individuals who have been placed on parole.

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

(i) sent to a facility;

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

(iii) released for a period during confinement for work, school, treatment, or other temporary nonconfinement purposes.