

1                                   **ABUSE OR NEGLECT OF A DISABLED**  
2                                                           **CHILD**

3                                                           2009 GENERAL SESSION

4                                                           STATE OF UTAH

5                                                           **Chief Sponsor: John L. Valentine**

6                                                           House Sponsor: Stephen E. Sandstrom

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends the Utah Criminal Code relating to Abuse or Neglect of a Disabled  
11   Child.

12   **Highlighted Provisions:**

13           This bill:

14           ▶ provides that a caretaker who intentionally, knowingly, or recklessly abuses or  
15   neglects a disabled child is guilty of a third degree felony.

16   **Monies Appropriated in this Bill:**

17           None

18   **Other Special Clauses:**

19           None

20   **Utah Code Sections Affected:**

21   AMENDS:

22           **76-5-110**, as last amended by Laws of Utah 2008, Chapter 3

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

25           Section 1. Section **76-5-110** is amended to read:

26           **76-5-110. Abuse or neglect of disabled child.**

27           (1) As used in this section:

28           (a) "Abuse" means:

29           (i) inflicting physical injury, as that term is defined in Section 76-5-109;

30 (ii) having the care or custody of a disabled child, causing or permitting another to  
31 inflict physical injury, as that term is defined in Section 76-5-109; or

32 (iii) unreasonable confinement.

33 (b) "Caretaker" means:

34 (i) any parent, legal guardian, or other person having under that person's care and  
35 custody a disabled child; or

36 (ii) any person, corporation, or public institution that has assumed by contract or court  
37 order the responsibility to provide food, shelter, clothing, medical, and other necessities to a  
38 disabled child.

39 (c) "Disabled child" means any person under 18 years of age who is impaired because  
40 of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent  
41 that the person is unable to care for the person's own personal safety or to provide necessities  
42 such as food, shelter, clothing, and medical care.

43 (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter,  
44 supervision, or medical care.

45 (2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a  
46 disabled child is guilty of a third degree felony.

47 (3) (a) A parent or legal guardian who provides a child with treatment by spiritual  
48 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and  
49 practices of an established church or religious denomination of which the parent or legal  
50 guardian is a member or adherent shall not, for that reason alone, be considered to be in  
51 violation under this section.

52 (b) Subject to Subsection 78A-6-117(2)(n)(iii), the exception under Subsection (3)(a)  
53 does not preclude a court from ordering medical services from a physician licensed to engage  
54 in the practice of medicine to be provided to the child where there is substantial risk of harm  
55 to the child's health or welfare if the treatment is not provided.

56 (c) A caretaker of a disabled child does not violate this section by selecting a treatment  
57 option for a disabled child's medical condition, if the treatment option is one that a reasonable

58 caretaker would believe to be in the best interest of the disabled child.