

Sexual Crime Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Mark A. Strong
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses the sentence length for the crimes of rape, object rape, and forcible sodomy.

Highlighted Provisions:

This bill:

- defines terms;
- amends the length of a sentence for the crimes of rape, object rape, and forcible sodomy if the actor committed the crime against an incapacitated adult; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-402, as last amended by Laws of Utah 2022, Chapter 181

76-5-402.2, as last amended by Laws of Utah 2022, Chapter 181

76-5-403, as last amended by Laws of Utah 2022, Chapter 181

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

Section 3. Section **76-5-402** is amended to read:

76-5-402 . Rape.

(1)(a) As used in this section, "incapacitated adult" means:

(i) an individual 14 years old or older with:

(A) an intellectual disease or defect;

(B) a physical disease or defect;

(C) a neurological disease or defect; or

- 31 (D) a cognitive disease or defect; and
- 32 (ii) as a result of the disease or defect described in Subsection (1)(a)(i), the individual
- 33 is unable to meet two or more of the following requirements:
- 34 (A) appraise the nature of an act of sexual intercourse;
- 35 (B) resist or escape an act of sexual intercourse; or
- 36 (C) report an act of sexual intercourse committed against the individual.
- 37 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 38 (2)(a) An actor commits rape if the actor has sexual intercourse with another individual
- 39 without the individual's consent.
- 40 (b) Any sexual penetration, however slight, is sufficient to constitute the relevant
- 41 element of a violation of Subsection (2)(a).
- 42 (c) This section applies whether or not the actor is married to the individual.
- 43 (3) A violation of Subsection (2) is a felony of the first degree, punishable by a term of
- 44 imprisonment of:
- 45 (a) except as provided in Subsection (3)(b) or (c), not less than five years and which may
- 46 be for life;
- 47 (b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if
- 48 the trier of fact finds that:
- 49 (i) during the course of the commission of the rape the defendant caused serious
- 50 bodily injury to the victim;[~~or~~]
- 51 (ii) at the time of the commission of the rape, the defendant was younger than 18
- 52 years old and was previously convicted of a grievous sexual offense; or
- 53 (iii) the act committed by the actor described in Subsection (2) was committed
- 54 against an incapacitated adult; or
- 55 (c) life without parole, if the trier of fact finds that at the time of the commission of the
- 56 rape the defendant was previously convicted of a grievous sexual offense.
- 57 (4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term
- 58 than the term described in Subsection (3)(b) is in the interests of justice and states the
- 59 reasons for this finding on the record, the court may impose a term of imprisonment of
- 60 not less than:
- 61 (a) 10 years and which may be for life; or
- 62 (b) six years and which may be for life.
- 63 (5) The provisions of Subsection (4) do not apply when a defendant is sentenced under
- 64 Subsection (3)(a) or (c).

65 (6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with
66 Section 76-3-406.

67 Section 2. Section **76-5-402.2** is amended to read:

68 **76-5-402.2 . Object rape.**

69 (1)(a) As used in this section, "incapacitated adult" means the same as that term is
70 defined in Section 76-5-402.

71 (b) Terms defined in Section 76-1-101.5 apply to this section.

72 (2) An actor commits object rape if:

73 (a) the actor:

74 (i) acts without an individual's consent;

75 (ii) causes the penetration, however slight, of the genital or anal opening of the
76 individual by:

77 (A) a foreign object;

78 (B) a substance;

79 (C) an instrument;

80 (D) a device; or

81 (E) a part of the human body other than the mouth or genitals; and

82 (iii)(A) intends to cause substantial emotional or bodily pain to the individual; or

83 (B) intends to arouse or gratify the sexual desire of any individual; and

84 (b) the individual described in Subsection (2)(a)(i) is 14 years old or older.

85 (3) A violation of Subsection (2) is a first degree felony, punishable by a term of
86 imprisonment of:

87 (a) except as provided in Subsection (3)(b) or (c), not less than five years and which may
88 be for life;

89 (b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if
90 the trier of fact finds that:

91 (i) during the course of the commission of the object rape the defendant caused
92 serious bodily injury to the victim;[~~or~~]

93 (ii) at the time of the commission of the object rape, the defendant was younger than
94 18 years old and was previously convicted of a grievous sexual offense; or

95 (iii) the act committed by the actor described in Subsection (2) was committed
96 against an incapacitated adult; or

97 (c) life without parole, if the trier of fact finds that at the time of the commission of the
98 object rape, the defendant was previously convicted of a grievous sexual offense.

- 99 (4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term
 100 than the term described in Subsection (3)(b) is in the interests of justice and states the
 101 reasons for this finding on the record, the court may impose a term of imprisonment of
 102 not less than:
- 103 (a) 10 years and which may be for life; or
 104 (b) six years and which may be for life.
- 105 (5) The provisions of Subsection (4) do not apply if a defendant is sentenced under
 106 Subsection (3)(a) or (c).
- 107 (6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with
 108 Section 76-3-406.
- 109 Section 4. Section **76-5-403** is amended to read:
- 110 **76-5-403 . Forcible sodomy.**
- 111 (1)(a) As used in this section[~~]~~ :
- 112 (i) "Incapacitated adult" means the same as that term is defined in Section 76-5-402.
 113 (ii) [~~"sodomy"~~] "Sodomy" means engaging in any sexual act with an individual who
 114 is 14 years old or older involving the genitals of one individual and the mouth or
 115 anus of another individual.
- 116 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 117 (2)(a) An actor commits forcible sodomy when the actor commits sodomy upon another
 118 individual without the other individual's consent.
- 119 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
 120 violation of Subsection (2)(a).
- 121 (3) A violation of Subsection (2) is a first degree felony, punishable by a term of
 122 imprisonment of:
- 123 (a) except as provided in Subsection (3)(b) or (c), not less than five years and which may
 124 be for life;
- 125 (b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if
 126 the trier of fact finds that:
- 127 (i) during the course of the commission of the forcible sodomy the defendant caused
 128 serious bodily injury to the victim;[~~or~~]
- 129 (ii) at the time of the commission of the ~~it~~ → **[rape] forcible sodomy** ← ~~it~~ , the
 129a defendant was younger than 18
 130 years old and was previously convicted of a grievous sexual offense; or
- 131 (iii) the act committed by the actor described in Subsection (2) was committed

- 132 against an incapacitated adult; or
- 133 (c) life without parole, if the trier of fact finds that at the time of the commission of the
- 134 forcible sodomy the defendant was previously convicted of a grievous sexual offense.
- 135 (4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term
- 136 than the term described in Subsection (3)(b) is in the interests of justice and states the
- 137 reasons for this finding on the record, the court may impose a term of imprisonment of
- 138 not less than:
- 139 (a) 10 years and which may be for life; or
- 140 (b) six years and which may be for life.
- 141 (5) The provisions of Subsection (4) do not apply when a defendant is sentenced under
- 142 Subsection (3)(a) or (c).
- 143 (6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with
- 144 Section 76-3-406.
- 145 Section 5. **Effective date.**
- 146 This bill takes effect on May 7, 2025.