

HB0358S01 compared with HB0358

{Omitted text} shows text that was in HB0358 but was omitted in HB0358S01

inserted text shows text that was not in HB0358 but was inserted into HB0358S01

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Criminal Sexual Conduct Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Verona Mauga

Senate Sponsor:

LONG TITLE

General Description:

This bill concerns criminal sexual conduct.

Highlighted Provisions:

This bill:

- defines terms;
- creates the criminal offense of:
 - custodial solicitation of sexually explicit conduct from a person in custody;
 - unlawful sexual activity with a child using virtual reality; and
 - unlawful sexual activity with a minor using virtual reality; and
- provides criminal penalties.

Money Appropriated in this Bill:

None

None

ENACTS:

76-5-412.4 , Utah Code Annotated 1953 , Utah Code Annotated 1953

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21 **76-5-417** , Utah Code Annotated 1953 , Utah Code Annotated 1953

22 **76-5-418** , Utah Code Annotated 1953 , Utah Code Annotated 1953

23

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

25 Section 1. Section **1** is enacted to read:

26 **76-5-412.4. Custodial solicitation of sexually explicit conduct from a person in custody.**

28 (1)

. (a) As used in this section:

29 (i) "Actor" means the same as that term is defined in Section 76-5-412.

30 (ii) "Person in custody" means an individual who is:

31 (A) 18 years old or older; and

32 (B) otherwise meets the definition of a person in custody as that term is defined in Section 76-5-412.

34 (iii) "Sexually explicit conduct" means actual or simulated:

35 (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

37 (B) masturbation;

38 (C) bestiality;

39 (D) sadistic or masochistic activities;

40 (E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

42 (F) visual depiction of nudity or partial nudity;

43 (G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

45 (H) the visual depiction of defecation or urination for the purpose of causing sexual arousal of any individual.

47 (iv) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

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

51 (2) An actor commits custodial solicitation of sexually explicit conduct from a person in custody if:

53 (a) the actor knowingly requests, demands, or otherwise solicits from a person in custody:

55 (i) a photograph, image, live video, or a recording of the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; or

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- 57 (ii) a live demonstration or performance by the person in custody engaging in sexually explicit conduct
or simulated sexually explicit conduct; and
- 59 (b)
- . (i) the actor knows that the individual described in Subsection (2)(a) is a person in custody; or
- 61 (ii) a reasonable person in the actor's position should have known under the circumstances that the
individual described in Subsection (2)(a) was a person in custody.
- 64 (3) A violation of Subsection (2) is a class A misdemeanor.
- 65 (4) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under
another provision of state law than is provided under this section, this section does not prohibit
prosecution and sentencing for the more serious offense.
- 68 (5) Consent of the person in custody is not a defense to any violation or attempted violation of
Subsection (2).
- 70 (6) This section does not apply to an actor who is acting within the course and scope of the actor's
legitimate duties, including documenting photographic evidence.
- 72 Section 2. Section 2 is enacted to read:
- 73 **76-5-417. Unlawful sexual activity with a child using virtual reality.**
- 74 (1)
- . (a) As used in this section:
- 75 (i) "Avatar" means a three-dimensional character that represents a human user in a virtual reality
environment.
- 77 (ii) "Child" means an individual who is younger than 14 years old.
- 78 (iii) "Haptic technology" means technology that can create an experience of touch by applying
force, vibration, or motion to the human user.
- 80 (iv) "Virtual reality" means a three-dimensional environment in which the human user is fully
immersed in a computer-generated simulation through the use of an avatar, regardless of
whether the human user is using haptic technology.
- 83 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 84 (2) An actor commits unlawful sexual activity with a child using virtual reality if the actor:
- 85 (a) is 18 years old or older;
- 86 (b) knows that the human user of an avatar is a child; and
- 87

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(c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the child's avatar involving:

90 (i) the genitals, pubic area, or anus of the actor's avatar or the child's avatar; and

87 ~~{(e)}~~ (ii) intentionally uses the mouth, buttocks, pubic area, genitals, or anus of either actor's avatar
the mouth, buttocks, pubic area, genitals, or anus of either actor's avatar ~~{to engage in sexual~~
activity with} or the child's avatar ~~{involving:}~~ .

89 ~~{(i) {the genitals or anus of the actor's avatar or the child's avatar; and } }~~

90 ~~{(ii) {the mouth, genitals, or anus of either the actor's avatar or the child's avatar.} }~~

93 (3)

91 ~~{(3)}~~ (a) {A} Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree
felony.

95 (b) A violation of Subsection (2) is a class A misdemeanor if the actor is less than 10 years older than
the child.

92 (4) Consent of the child to engage in the sexual activity is not a defense to a violation of Subsection (2).

99 Section 3. Section 3 is enacted to read:

100 **76-5-418. Unlawful sexual activity with a minor using virtual reality.**

96 (1)

. (a) As used in this section:

97 (i) "Avatar" means the same as that term is defined in Section 76-5-417.

98 (ii) "Haptic technology" means the same as that term is defined in Section 76-5-417.

99 (iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.

101 (iv) "Virtual reality" means the same as that term is defined in Section 76-5-417.

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

103 (2) An actor commits unlawful sexual activity with a minor using virtual reality if the actor:

104 (a) knows that the human user of an avatar is a minor;

105 (b) is older than the minor by 10 years or more; and

111 (c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses
the actor's avatar to engage in sexual activity or simulated sexual activity with the minor's avatar
involving:

114 (i) the genitals, pubic area, or anus of the actor's avatar or the minor's avatar; and

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- 106 ~~{(e)}~~ (ii) ~~{intentionally uses}~~ the mouth, buttocks, pubic area, genitals, or anus of either actor's avatar
the mouth, buttocks, pubic area, genitals, or anus of either actor's avatar ~~{to engage in sexual~~
activity with} or the minor's avatar ~~{involving}~~ .
- 108 ~~{(i) {the genitals or anus of the actor's avatar or the minor's avatar; and}}~~
- 109 ~~{(ii) {the mouth, genitals, or anus of either the actor's avatar or the minor's avatar.}}~~
- 110 (3) A violation of Subsection (2) is a class A misdemeanor.
- 111 (4) Consent of the minor to engage in the sexual activity is not a defense to a violation of Subsection
(2).

120 Section 4. **Effective date.**

This bill takes effect on May 7, 2025.

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