

HB0105S01 compared with HB0105

{Omitted text} shows text that was in HB0105 but was omitted in HB0105S01

inserted text shows text that was not in HB0105 but was inserted into HB0105S01

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Criminal Code Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor:

LONG TITLE

General Description:

This bill makes changes to criminal offenses in Title 76, Utah Criminal Code.

Highlighted Provisions:

This bill:

- ▶ amends the penalty for attempted murder;
- ▶ amends the crime of interference with a public servant;
- ▶ makes it a crime for an individual occupying a position of special trust in a high school to engage in certain sexual conduct with an adult high school student;
- ▶ makes it a crime for an individual to remove the clothing of another individual without the individual's consent in certain circumstances;
- ▶ repeals Title 76, Chapter 8, Part 8, Sabotage Prevention; { and }
- ▶ contains a coordination clause to coordinate technical changes between this bill and H.B. 21, Criminal Code Recodification and Cross References; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

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19 None

20 This bill provides a coordination clause.

23 AMENDS:

24 **76-4-102** , as last amended by Laws of Utah 2013, Chapter 93 , as last amended by Laws of Utah
2013, Chapter 93

25 **76-5-203** , as last amended by Laws of Utah 2024, Chapters 96, 187 , as last amended by Laws of
Utah 2024, Chapters 96, 187

26 **76-8-301.2** , as enacted by Laws of Utah 2024, Chapter 96 , as enacted by Laws of Utah 2024,
Chapter 96

27 ENACTS:

28 **76-5-417** , Utah Code Annotated 1953 , Utah Code Annotated 1953

29 **76-9-702.9** , Utah Code Annotated 1953 , Utah Code Annotated 1953

30 REPEALS:

31 **76-8-802** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

32 **76-8-803** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

33 **76-8-804** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

34 **76-8-805** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

35 **76-8-807** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

36 **76-8-810** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

37 **76-8-811** , as last amended by Laws of Utah 2024, Chapter 96 , as last amended by Laws of Utah
2024, Chapter 96

38 **Utah Code Sections affected by Coordination Clause:**

39 **76-9-702.9** , Utah Code Annotated 1953 , Utah Code Annotated 1953

40

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

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- 42 Section 1. Section **76-4-102** is amended to read:
- 43 **76-4-102. Attempt -- Classification of offenses.**
- 40 (1) ~~[Criminal attempt]~~ A violation of Section 76-4-101 where the actor attempts to commit:
- 41 (a)
- . (i) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;
- 43 (ii) except as provided in Subsection (2), ~~[an attempt to commit]~~ aggravated murder~~[-]~~ under Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment for an indeterminate term of not fewer than 15 years and which may be for life;
- 47 (b) except as provided in Subsection (1)(c)~~[-or]~~ , (d), or (e), a first degree felony is a second degree felony;
- 49 (c) murder under Subsection 76-5-203(2)(a) is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than five years and which may be for life;
- 52 ~~[(e)] (d)~~ ~~[any of]~~ one of the the following offenses is a first degree felony that is punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:
- 55 ~~[(i) murder, Subsection 76-5-203(2)(a);]~~
- 56 ~~[(ii)] (i)~~ child kidnapping~~[-]~~ under Section 76-5-301.1; or
- 57 ~~[(iii)] (ii)~~ except as provided in Subsection ~~[(1)(d), any of the felonies]~~ (1)(e), a felony described in Title 76, Chapter 5, Part 4, Sexual Offenses, that ~~[are first degree felonies]~~ is a first degree felony;
- 60 ~~[(d)] (e)~~ except as provided in Subsection (3), ~~[any]~~ one of the following offenses is a first degree felony~~[-]~~ that is punishable by~~[-a term of]~~ imprisonment for an indeterminate term of not ~~[less]~~ fewer than 15 years and which may be for life:
- 63 (i) rape of a child~~[-]~~ under Section 76-5-402.1;
- 64 (ii) object rape of a child~~[-]~~ under Section 76-5-402.3; or
- 65 (iii) sodomy on a child~~[-]~~ under Section 76-5-403.1;
- 66 ~~[(e)] (f)~~ a second degree felony is a third degree felony;
- 67 ~~[(f)] (g)~~ a third degree felony is a class A misdemeanor;
- 68 ~~[(g)] (h)~~ a class A misdemeanor is a class B misdemeanor;
- 69 ~~[(h)] (i)~~ a class B misdemeanor is a class C misdemeanor; and
- 70 ~~[(i)] (j)~~ a class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

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- 72 (2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term than the
term described in Subsection (1)(a)(ii) is in the interests of justice and the court states the reasons
for this finding on the record, the court may impose a term of imprisonment of not less than:
- 76 (a) 10 years and which may be for life; or
77 (b) six years and which may be for life.
- 78 (3) If, when imposing a sentence under Subsection [~~(1)(d)~~;] (1)(e), a court finds that a lesser term than
the term described in Subsection [~~(1)(d)~~] (1)(e) is in the interests of justice and states the reasons for
this finding on the record, the court may impose a term of imprisonment of not less than:
- 82 (a) 10 years and which may be for life;
83 (b) six years and which may be for life; or
84 (c) three years and which may be for life.
- 89 Section 2. Section **76-5-203** is amended to read:
90 **76-5-203. Murder -- Penalties -- Affirmative defense and special mitigation -- Separate
offenses.**
- 88 (1)
. (a) As used in this section, "predicate offense" means:
- 89 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
90 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is
younger than 18 years old;
- 92 (iii) kidnapping under Section 76-5-301;
93 (iv) child kidnapping under Section 76-5-301.1;
94 (v) aggravated kidnapping under Section 76-5-302;
95 (vi) rape under Section 76-5-402;
96 (vii) rape of a child under Section 76-5-402.1;
97 (viii) object rape under Section 76-5-402.2;
98 (ix) object rape of a child under Section 76-5-402.3;
99 (x) forcible sodomy under Section 76-5-403;
100 (xi) sodomy upon a child under Section 76-5-403.1;
101 (xii) forcible sexual abuse under Section 76-5-404;
102 (xiii) sexual abuse of a child under Section 76-5-404.1;
103 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

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- 104 (xv) aggravated sexual assault under Section 76-5-405;
- 105 (xvi) arson under Section 76-6-102;
- 106 (xvii) aggravated arson under Section 76-6-103;
- 107 (xviii) burglary under Section 76-6-202;
- 108 (xix) aggravated burglary under Section 76-6-203;
- 109 (xx) robbery under Section 76-6-301;
- 110 (xxi) aggravated robbery under Section 76-6-302;
- 111 (xxii) escape under Section 76-8-309;
- 112 (xxiii) aggravated escape under Section 76-8-309.3; or
- 113 (xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or
dangerous weapon.
- 115 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 116 (2) An actor commits murder if:
- 117 (a) the actor intentionally or knowingly causes the death of another individual;
- 118 (b) intending to cause serious bodily injury to another individual, the actor commits an act clearly
dangerous to human life that causes the death of the other individual;
- 120 (c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly
engages in conduct that creates a grave risk of death to another individual and thereby causes the
death of the other individual;
- 123 (d)
- . (i) the actor is engaged in the commission, attempted commission, or immediate flight from the
commission or attempted commission of any predicate offense, or is a party to the predicate offense;
- 126 (ii) an individual other than a party described in Section 76-2-202 is killed in the course of the
commission, attempted commission, or immediate flight from the commission or attempted
commission of any predicate offense; and
- 129 (iii) the actor acted with the intent required as an element of the predicate offense;
- 130 (e) the actor recklessly causes the death of a peace officer or military service member in uniform while
in the commission or attempted commission of:
- 132 (i) an assault against a peace officer under Section 76-5-102.4;
- 133 (ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor
uses force against the peace officer; or

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- 135 (iii) an assault against a military service member in uniform under Section 76-5-102.4; or
137 (f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in
accordance with Subsection 76-5-202(4).
- 139 (3)
. (a)
. (i) A violation of Subsection (2) is a first degree felony.
140 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an
indeterminate term of not less than 15 years and which may be for life.
- 142 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively,
attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds
that the existence of special mitigation is established by a preponderance of the evidence and in
accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:
- 147 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction
for manslaughter; or
149 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding
Subsection 76-4-102(1)(b) or [~~76-4-102(1)(e)(i)~~] 76-4-102(1)(c), enter a judgment of conviction for
attempted manslaughter.
- 152 (4)
. (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the
death of another individual or attempted to cause the death of another individual under a reasonable
belief that the circumstances provided a legal justification or excuse for the conduct although the
conduct was not legally justifiable or excusable under the existing circumstances.
- 157 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of
a reasonable person under the then existing circumstances.
- 159 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively,
attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds
the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt,
the court shall enter a judgment of conviction as follows:
- 164 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction
for manslaughter; or

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(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

168 (5)

. (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

170 (b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

176 Section 3. Section 3 is enacted to read:

177 **76-5-417. Sexual relations with an adult high school student.**

174 (1)

. (a) As used in this section:

175 (i) "Actor" means an individual who is 21 years old or older.

176 (ii) "Adult high school student" means an individual who is 18 to 21 years old and enrolled at a high school.

178 (iii) "High school" means a district, charter, or private school that is comprised of grade 9, 10, 11, or 12.

180 (iv) "Position of special trust" means the following positions in a high school:

181 (A) a teacher;

182 (B) an administrator;

183 (C) a coach;

184 (D) a counselor; or

185 (E) an individual other than an individual listed in Subsections (1)(a)(iv)(A) through (1)(a)(iv)(D) who occupies a position of authority that enables the individual to exercise undue influence over an adult high school student.

188 (v) "Sexual intercourse" means any penetration, however slight, of:

189 (A) the genitals or anus of an individual by another individual using any body part, object, or substance;
or

191 (B) the mouth of an individual by another individual's genitals.

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

193 (2) An actor commits sexual relations with an adult high school student if the actor:

194 (a)

. (i) has sexual intercourse with an adult high school student; or

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- 195 (ii) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to
arouse or gratify the sexual desire of any individual:
- 197 (A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult high school student;
199 (B) touches the breast of a female adult high school student; or
200 (C) otherwise takes indecent liberties with an adult high school student;
201 (b) occupies a position of special trust in relation to the adult high school student described in
Subsection (2)(a); and
- 203 (c) knows or should have known that the individual with which the actor committed the acts described
in Subsection (2)(a) was an adult high school student.
- 205 (3) A violation of Subsection (2) is a third degree felony.
- 206 (4) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element
of a violation of Subsection (2)(a)(ii).
- 208 (5) Consent of an adult high school student to an act described in Subsection (2) is not a defense to
prosecution under this section.

214 Section 4. Section **76-8-301.2** is amended to read:

215 **76-8-301.2. Denial of public servant's use of public property.**

212 (1)

- . (a) As used in this section, "public servant" does not include a juror.
- 213 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
- 214 (2) An actor commits denial of public servant's use of public property if, under circumstances not
amounting to unlawful detention and unlawful detention of a minor as described in Section
76-5-304, the actor, on property that is owned, operated, or controlled by the state or a political
subdivision of the state, willfully denies to a public servant lawful:

219 (a) freedom of movement;

220 (b) use of the property or facility; or

221 (c) entry into or exit from the facility.

222 (3) A violation of Subsection (2) is a class C misdemeanor.

228 Section 5. Section **5** is enacted to read:

229 **76-9-702.9. Indecent exposure of another individual.**

225 (1)

- . (a) As used in this section:

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- 226 (i) "First responder" means the same as that term is defined in Section 34A-2-102.
- 227 (ii) "Health care professional" means the same as that term is defined in Section 53-3-207.
- 229 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 230 (2) An actor commits indecent exposure of another individual if the actor exposes in a public place,
without the individual's consent, the individual's:
- 232 (a) undergarments intended to cover the individual's genitals, breasts if the individual is female,
buttocks, anus, or pubic area; or
- 234 (b) genitals, breast below the top of the areola if the individual is female, buttocks, anus, or pubic area.
- 236 (3)
- . (a) A violation of Subsection (2)(a) is a class C misdemeanor.
- 237 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2)(b) is a class B misdemeanor.
- 239 (c) A violation of Subsection (2)(b) is a class A misdemeanor if the actor committed the violation in the
presence of an individual who is younger than 14 years old.
- 241 (4) An actor under the age of 18 years old may not be referred to the juvenile court or prosecuting
attorney under this section unless the actor has previously received a written warning from a law
enforcement officer for conduct described in Subsection (2).
- 244 (5) This section does not apply to a first responder or health care professional who removes the clothing
of another individual during an emergency to provide medical care to that individual resulting in the
exposure of that individual described in Subsection (2).

252 Section 6. **Repealer.**

This Bill Repeals:

253 This bill repeals:

254 Section **76-8-802, Destruction of property to interfere with preparations for defense or**
255 **war.**

256 Section **76-8-803, Causing or omitting to note defects in articles used in preparation for**
257 **defense or war.**

258 Section **76-8-804, Attempts to commit crimes of sabotage.**

259 Section **76-8-805, Conspiracy to commit crimes of sabotage.**

260 Section **76-8-807, Trespassing at a war or defense facility.**

261 Section **76-8-810, Violation of an order closing or restricting a highway.**

262 Section **76-8-811, Bargaining rights of employees not impaired by sabotage prevention**

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263 **laws.**

264 Section 7. **Effective date.**

This bill takes effect on May 7, 2025.

266 Section 8. **Coordinating H.B. 105 with H.B. 21.**

If H.B. 105, Criminal Code Modifications, and H.B. 21, Criminal Code

Recodification and Cross References, both pass and become law, the Legislature intends that, on May 7, 2025, Section 76-9-702.9, enacted in H.B. 105, be renumbered to Section 76-5-421.

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