

Matthew H. Gwynn proposes the following substitute bill:

Criminal Code Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Keith Grover

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;
- 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:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

76-5-417, Utah Code Annotated 1953

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

30 REPEALS:

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

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

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

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

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

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

37 **76-8-811**, 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

40

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

42 Section 1. Section **76-4-102** is amended to read:

43 **76-4-102 . Attempt -- Classification of offenses.**

44 (1) [~~Criminal attempt~~] A violation of Section 76-4-101 where the actor attempts to commit:

45 (a)(i) a capital felony, or a felony punishable by imprisonment for life without parole,
46 is a first degree felony;

47 (ii) except as provided in Subsection (2), [~~an attempt to commit~~]aggravated murder[;]
48 under Section 76-5-202, which results in serious bodily injury, is punishable by
49 imprisonment for an indeterminate term of not fewer than 15 years and which may
50 be for life;

51 (b) except as provided in Subsection (1)(c)[~~or~~] , (d), or (e), a first degree felony is a
52 second degree felony;

53 (c) murder under Subsection 76-5-203(2)(a) is a first degree felony punishable by
54 imprisonment for an indeterminate term of not fewer than five years and which may
55 be for life;

56 [(e)] (d) [~~any of~~] one of the the following offenses is a first degree felony that is
57 punishable by imprisonment for an indeterminate term of not fewer than three years
58 and which may be for life:

59 [(i) murder, Subsection 76-5-203(2)(a);]

60 [(ii)] (i) child kidnapping[;] under Section 76-5-301.1; or

61 [(iii)] (ii) except as provided in Subsection [(1)(d), any of the felonies] (1)(e), a felony
62 described in Title 76, Chapter 5, Part 4, Sexual Offenses, that [are first degree

- 63 felonies] is a first degree felony;
- 64 [(d)] (e) except as provided in Subsection (3), [any] one of the following offenses is a first
- 65 degree felony[;] that is punishable by[-a term of] imprisonment for an indeterminate
- 66 term of not [less] fewer than 15 years and which may be for life:
- 67 (i) rape of a child[;] under Section 76-5-402.1;
- 68 (ii) object rape of a child[;] under Section 76-5-402.3; or
- 69 (iii) sodomy on a child[;] under Section 76-5-403.1;
- 70 [(e)] (f) a second degree felony is a third degree felony;
- 71 [(f)] (g) a third degree felony is a class A misdemeanor;
- 72 [(g)] (h) a class A misdemeanor is a class B misdemeanor;
- 73 [(h)] (i) a class B misdemeanor is a class C misdemeanor; and
- 74 [(i)] (j) a class C misdemeanor is punishable by a penalty not exceeding one half the
- 75 penalty for a class C misdemeanor.
- 76 (2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term
- 77 than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court
- 78 states the reasons for this finding on the record, the court may impose a term of
- 79 imprisonment of not less than:
- 80 (a) 10 years and which may be for life; or
- 81 (b) six years and which may be for life.
- 82 (3) If, when imposing a sentence under Subsection [(1)(d);] (1)(e), a court finds that a lesser
- 83 term than the term described in Subsection [(1)(d)] (1)(e) is in the interests of justice and
- 84 states the reasons for this finding on the record, the court may impose a term of
- 85 imprisonment of not less than:
- 86 (a) 10 years and which may be for life;
- 87 (b) six years and which may be for life; or
- 88 (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 --**
- 91 **Separate offenses.**
- 92 (1)(a) As used in this section, "predicate offense" means:
- 93 (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;
- 94 (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused
- 95 individual is younger than 18 years old;
- 96 (iii) kidnapping under Section 76-5-301;

- 97 (iv) child kidnapping under Section 76-5-301.1;
98 (v) aggravated kidnapping under Section 76-5-302;
99 (vi) rape under Section 76-5-402;
100 (vii) rape of a child under Section 76-5-402.1;
101 (viii) object rape under Section 76-5-402.2;
102 (ix) object rape of a child under Section 76-5-402.3;
103 (x) forcible sodomy under Section 76-5-403;
104 (xi) sodomy upon a child under Section 76-5-403.1;
105 (xii) forcible sexual abuse under Section 76-5-404;
106 (xiii) sexual abuse of a child under Section 76-5-404.1;
107 (xiv) aggravated sexual abuse of a child under Section 76-5-404.3;
108 (xv) aggravated sexual assault under Section 76-5-405;
109 (xvi) arson under Section 76-6-102;
110 (xvii) aggravated arson under Section 76-6-103;
111 (xviii) burglary under Section 76-6-202;
112 (xix) aggravated burglary under Section 76-6-203;
113 (xx) robbery under Section 76-6-301;
114 (xxi) aggravated robbery under Section 76-6-302;
115 (xxii) escape under Section 76-8-309;
116 (xxiii) aggravated escape under Section 76-8-309.3; or
117 (xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of
118 a firearm or dangerous weapon.
- 119 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 120 (2) An actor commits murder if:
- 121 (a) the actor intentionally or knowingly causes the death of another individual;
122 (b) intending to cause serious bodily injury to another individual, the actor commits an
123 act clearly dangerous to human life that causes the death of the other individual;
124 (c) acting under circumstances evidencing a depraved indifference to human life, the
125 actor knowingly engages in conduct that creates a grave risk of death to another
126 individual and thereby causes the death of the other individual;
127 (d)(i) the actor is engaged in the commission, attempted commission, or immediate
128 flight from the commission or attempted commission of any predicate offense, or
129 is a party to the predicate offense;
130 (ii) an individual other than a party described in Section 76-2-202 is killed in the

- 131 course of the commission, attempted commission, or immediate flight from the
132 commission or attempted commission of any predicate offense; and
- 133 (iii) the actor acted with the intent required as an element of the predicate offense;
- 134 (e) the actor recklessly causes the death of a peace officer or military service member in
135 uniform while in the commission or attempted commission of:
- 136 (i) an assault against a peace officer under Section 76-5-102.4;
- 137 (ii) interference with a peace officer while making a lawful arrest under Section
138 76-8-305 if the actor uses force against the peace officer; or
- 139 (iii) an assault against a military service member in uniform under Section 76-5-102.4;
- 140 or
- 141 (f) the actor commits a homicide that would be aggravated murder, but the offense is
142 reduced in accordance with Subsection 76-5-202(4).
- 143 (3)(a)(i) A violation of Subsection (2) is a first degree felony.
- 144 (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for
145 an indeterminate term of not less than 15 years and which may be for life.
- 146 (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
147 or alternatively, attempted murder, as described in this section are proved beyond a
148 reasonable doubt, and also finds that the existence of special mitigation is established
149 by a preponderance of the evidence and in accordance with Section 76-5-205.5, the
150 court shall enter a judgment of conviction as follows:
- 151 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
152 judgment of conviction for manslaughter; or
- 153 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall,
154 notwithstanding Subsection 76-4-102(1)(b) or ~~[76-4-102(1)(e)(i)]~~ 76-4-102(1)(c),
155 enter a judgment of conviction for attempted manslaughter.
- 156 (4)(a) It is an affirmative defense to a charge of murder or attempted murder that the
157 defendant caused the death of another individual or attempted to cause the death of
158 another individual under a reasonable belief that the circumstances provided a legal
159 justification or excuse for the conduct although the conduct was not legally justifiable
160 or excusable under the existing circumstances.
- 161 (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from
162 the viewpoint of a reasonable person under the then existing circumstances.
- 163 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or
164 alternatively, attempted murder, as described in this section are proved beyond a

165 reasonable doubt, and also finds the affirmative defense described in this Subsection
 166 (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of
 167 conviction as follows:

- 168 (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a
 169 judgment of conviction for manslaughter; or
 170 (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall
 171 enter a judgment of conviction for attempted manslaughter.

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

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

176 Section 3. Section **76-5-417** is enacted to read:

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

178 (1)(a) As used in this section:

- 179 (i) "Actor" means an individual who is 21 years old or older.
 180 (ii) "Adult high school student" means an individual who is 18 to 21 years old and
 181 enrolled at a high school.
 182 (iii) "High school" means a district, charter, or private school that is comprised of
 183 grade 9, 10, 11, or 12.
 184 (iv) "Position of special trust" means the following positions in a high school:
 185 (A) a teacher;
 186 (B) an administrator;
 187 (C) a coach;
 188 (D) a counselor; or
 189 (E) an individual other than an individual listed in Subsections (1)(a)(iv)(A)
 190 through (1)(a)(iv)(D) who occupies a position of authority that enables the
 191 individual to exercise undue influence over an adult high school student.
 192 (v) "Sexual intercourse" means any penetration, however slight, of:
 193 (A) the genitals or anus of an individual by another individual using any body
 194 part, object, or substance; or
 195 (B) the mouth of an individual by another individual's genitals.

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

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

- 198 (a)(i) has sexual intercourse with an adult high school student; or

- 199 (ii) with the intent to cause substantial emotional or bodily pain to any individual or
 200 with the intent to arouse or gratify the sexual desire of any individual:
 201 (A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult
 202 high school student;
 203 (B) touches the breast of a female adult high school student; or
 204 (C) otherwise takes indecent liberties with an adult high school student;
 205 (b) occupies a position of special trust in relation to the adult high school student
 206 described in Subsection (2)(a); and
 207 (c) knows or should have known that the individual with which the actor committed the
 208 acts described in Subsection (2)(a) was an adult high school student.
 209 (3) A violation of Subsection (2) is a third degree felony.
 210 (4) Any touching, even if accomplished through clothing, is sufficient to constitute the
 211 relevant element of a violation of Subsection (2)(a)(ii).
 212 (5) Consent of an adult high school student to an act described in Subsection (2) is not a
 213 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.**

- 216 (1)(a) As used in this section, "public servant" does not include a juror.
 217 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.
 218 (2) An actor commits denial of public servant's use of public property if, under
 219 circumstances not amounting to unlawful detention and unlawful detention of a minor as
 220 described in Section 76-5-304, the actor, on property that is owned, operated, or
 221 controlled by the state or a political subdivision of the state, willfully denies to a public
 222 servant lawful:
 223 (a) freedom of movement;
 224 (b) use of the property or facility; or
 225 (c) entry into or exit from the facility.
 226 (3) A violation of Subsection (2) is a class C misdemeanor.

227 *The following section is affected by a coordination clause at the end of this bill.*

228 Section 5. Section **76-9-702.9** is enacted to read:

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

- 230 (1)(a) As used in this section:
 231 (i) "First responder" means the same as that term is defined in Section 34A-2-102.
 232 (ii) "Health care professional" means the same as that term is defined in Section

233 53-3-207.

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

235 (2) An actor commits indecent exposure of another individual if the actor exposes in a
236 public place, without the individual's consent, the individual's:

237 (a) undergarments intended to cover the individual's genitals, breasts if the individual is
238 female, buttocks, anus, or pubic area; or

239 (b) genitals, breast below the top of the areola if the individual is female, buttocks, anus,
240 or pubic area.

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

242 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2)(b) is a class B
243 misdemeanor.

244 (c) A violation of Subsection (2)(b) is a class A misdemeanor if the actor committed the
245 violation in the presence of an individual who is younger than 14 years old.

246 (4) An actor under the age of 18 years old may not be referred to the juvenile court or
247 prosecuting attorney under this section unless the actor has previously received a written
248 warning from a law enforcement officer for conduct described in Subsection (2).

249 (5) This section does not apply to a first responder or health care professional who removes
250 the clothing of another individual during an emergency to provide medical care to that
251 individual resulting in the exposure of that individual described in Subsection (2).

252 **Section 6. Repealer.**

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**
263 **laws.**

264 **Section 7. Effective date.**

265 This bill takes effect on May 7, 2025.

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

267 If H.B. 105, Criminal Code Modifications, and H.B. 21, Criminal Code
268 Recodification and Cross References, both pass and become law, the Legislature intends that,
269 on May 7, 2025, Section 76-9-702.9, enacted in H.B. 105, be renumbered to Section 76-5-421.