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**Sexual Offense Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Angela Romero**

Senate Sponsor:

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**LONG TITLE**

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**General Description:**

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This bill modifies provisions concerning sexual offenses.

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**Highlighted Provisions:**

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This bill:

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▸ modifies what actions or omissions do not demonstrate consent with regard to certain

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sexual offenses; and

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▸ makes technical and conforming changes.

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**Money Appropriated in this Bill:**

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None

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**Other Special Clauses:**

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None

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**Utah Code Sections Affected:**

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AMENDS:

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**76-5-406**, as last amended by Laws of Utah 2020, Chapter 92

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

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Section 1. Section **76-5-406** is amended to read:

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**76-5-406 . Sexual offenses against the victim without consent of victim --**

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**Circumstances.**

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(1) As used in this section:

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(a) "Health professional" means an individual who is licensed or who holds the

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individual out to be licensed, or who otherwise provides professional physical or

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mental health services, diagnosis, treatment, or counseling, including an athletic

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trainer, physician, osteopathic physician, physician assistant, nurse, dentist, physical

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therapist, chiropractor, mental health therapist, social service worker, clinical social

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worker, certified social worker, marriage and family therapist, professional

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counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or

- 31 substance abuse counselor.
- 32 (b) "Religious counselor" means a minister, priest, rabbi, bishop, or other recognized  
33 member of the clergy.
- 34 (c) "To retaliate" includes threats of physical force, kidnapping, or extortion.
- 35 (2) An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a  
36 child, object rape, attempted object rape, object rape of a child, attempted object rape of  
37 a child, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted  
38 sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse  
39 of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child,  
40 attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent  
41 of the victim under any of the following circumstances:
- 42 (a) the victim expresses lack of consent through words or conduct;
- 43 (b) the actor overcomes the victim through the actual application of physical force or  
44 violence;
- 45 (c) the actor is able to overcome the victim through concealment or by the element of  
46 surprise;
- 47 (d)(i) the actor coerces the victim to submit by threatening to retaliate in the  
48 immediate future against the victim or any other person, and the victim perceives  
49 at the time that the actor has the ability to execute this threat; or
- 50 (ii) the actor coerces the victim to submit by threatening to retaliate in the future  
51 against the victim or any other person, and the victim believes at the time that the  
52 actor has the ability to execute this threat;
- 53 (e) the actor knows the victim is unconscious, unaware that the act is occurring, or is  
54 physically unable to resist;
- 55 (f) the actor knows or reasonably should know that the victim has a mental disease or  
56 defect, which renders the victim unable to:
- 57 (i) appraise the nature of the act;
- 58 (ii) resist the act;
- 59 (iii) understand the possible consequences to the victim's health or safety; or
- 60 (iv) appraise the nature of the relationship between the actor and the victim;
- 61 (g) the actor knows that the victim participates because the victim erroneously believes  
62 that the actor is someone else;
- 63 (h) the actor intentionally impaired the power of the victim to appraise or control his or  
64 her conduct by administering any substance without the victim's knowledge;

- 65 (i) the victim is younger than 14 years [~~of age~~] old;
- 66 (j) the victim is younger than 18 years [~~of age~~] old and at the time of the offense the actor
- 67 was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a
- 68 position of special trust in relation to the victim as defined in Section 76-5-404.1;
- 69 (k) the victim is 14 years [~~of age~~] old or older, but younger than 18 years [~~of age~~] old, and
- 70 the actor is more than three years older than the victim and entices or coerces the
- 71 victim to submit or participate, under circumstances not amounting to the force or
- 72 threat required under Subsection (2)(b) or (d); or
- 73 (l) the actor is a health professional or religious counselor, the act is committed under
- 74 the guise of providing professional diagnosis, counseling, or treatment, and at the
- 75 time of the act the victim reasonably believed that the act was for medically or
- 76 professionally appropriate diagnosis, counseling, or treatment to the extent that
- 77 resistance by the victim could not reasonably be expected to have been manifested.
- 78 (3)(a) Consent to any sexual act or prior consensual activity between or with any party
- 79 does not necessarily constitute consent to any other sexual act.
- 80 (b) Consent may be initially given but may be withdrawn through words or conduct at
- 81 any time prior to or during sexual activity.
- 82 (c) While silence, lack of protest, or lack of resistance are among circumstances that
- 83 may be considered in determining whether consent was given, silence, lack of
- 84 protest, or lack of resistance alone do not demonstrate consent.

85 Section 2. **Effective Date.**

86 This bill takes effect on May 7, 2025.