

Jen Plumb proposes the following substitute bill:

**Care Provider Abuse Modifications**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

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**LONG TITLE**

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**General Description:**

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This bill addresses sexual misconduct between certain care providers and vulnerable adults.

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**Highlighted Provisions:**

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This bill:

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▸ defines terms; and

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▸ makes it a criminal offense for certain care providers to have sexual relations with a

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vulnerable adult.

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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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ENACTS:

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

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

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Section 1. Section **76-5-417** is enacted to read:

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**76-5-417 . Care provider sexual relations with a vulnerable adult.**

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

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(i) "Ambulatory surgical facility" means the same as that term is defined in Section 26B-2-201.

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(ii) "Assisted living facility" means the same as that term is defined in Section 26B-2-201.

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(iii) "Birthing center" means the same as that term is defined in Section 26B-2-201.

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(iv) "End stage renal disease facility" means the same as that term is defined in Section 26B-2-201.

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(v) "General acute hospital" means the same as that term is defined in Section

- 30            26B-2-201.
- 31            (vi) "Health care facility" means:
- 32            (A) a general acute hospital;
- 33            (B) a specialty hospital;
- 34            (C) a home health agency;
- 35            (D) a hospice;
- 36            (E) a nursing care facility;
- 37            (F) an assisted living facility;
- 38            (G) a birthing center;
- 39            (H) an ambulatory surgical facility;
- 40            (I) a small health care facility;
- 41            (J) a health care facility owned or operated by a health maintenance organization;
- 42            or
- 43            (K) an end stage renal disease facility.
- 44            (vii) "Health care provider" means an individual listed in Subsection 78B-3-403(12).
- 45            (viii) "Health maintenance organization" means the same as that term is defined in
- 46            Section 26B-2-201.
- 47            (ix)(A) "Home health agency" means an agency, organization, or facility or a
- 48            subdivision of an agency, organization, or facility which employs two or more
- 49            direct care staff individuals who provide licensed nursing services, therapeutic
- 50            services of physical therapy, speech therapy, occupational therapy, medical
- 51            social services, or home health aide services on a visiting basis.
- 52            (B) "Home health agency" includes an individual who provides services under the
- 53            authority of a private license.
- 54            (x) "Hospice" means the same as that term is defined in Section 26B-2-201.
- 55            (xi) "Human services program" means the same as that term is defined in Section
- 56            26B-2-101.
- 57            (xii) "Nursing care facility" means the same as that term is defined in Section
- 58            26B-2-201.
- 59            (xiii) "Sexual intercourse" means any penetration, however slight, of:
- 60            (A) the genitals or anus of an individual by another individual using any body
- 61            part, object, or substance; or
- 62            (B) the mouth of an individual by another individual's genitals.
- 63            (xiv) "Small health care facility" means the same as that term is defined in Section

64 26B-2-201.

65 (xv) "Specialty hospital" means the same as that term is defined in Section 26B-2-201.

66 (xvi) "Vulnerable adult" means an individual who is 18 years old or older and

67 possesses a physical or mental impairment that substantially affects the

68 individual's ability to:

69 (A) provide personal protection;

70 (B) provide necessities such as food, shelter, clothing, or medical or other health

71 care;

72 (C) obtain services necessary for health, safety, or welfare;

73 (D) carry out the activities of daily living;

74 (E) manage the adult's own resources; or

75 (F) comprehend the nature and consequences of remaining in a situation of abuse,

76 neglect, or exploitation.

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

78 (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor

79 commits care provider sexual relations with a vulnerable adult if:

80 (a)(i) the actor is employed by, volunteers for, or otherwise assists a health care

81 facility or human services program; or

82 (ii) the actor is a health care provider;

83 (b)(i) the actor has sexual intercourse with a vulnerable adult; or

84 (ii) the actor with the intent to cause substantial emotional or bodily pain to any

85 individual or with the intent to arouse or gratify the sexual desire of any individual:

86 (A) touches, whether over or under the clothing, the anus, buttocks, pubic area, or

87 any part of the genitals of a vulnerable adult;

88 (B) touches, whether over or under the clothing, the breast of a female vulnerable

89 adult; or

90 (C) otherwise takes indecent liberties with a vulnerable adult;

91 (c) the vulnerable adult described in Subsection (2)(b) is:

92 (i) currently under the care or responsibility of the actor; or

93 (ii) currently a patient of, or receiving services from, the health care facility or human

94 services program where the actor is employed, volunteers, or otherwise assists; and

95 (d) the actor knows, or should have known, that at the time the actor committed the acts

96 described in Subsection (2)(b) against the vulnerable adult, the individual was under

97 the care or responsibility of:

- 98           (i) the actor; or
- 99           (ii) the health care facility or human services program where the actor is employed,
- 100                 volunteers, or otherwise assists.
- 101 (3) A violation of Subsection (2) is a class A misdemeanor.
- 102 (4) The offenses referred to in Subsection (2) are:
- 103         (a) rape, in violation of Section 76-5-402;
- 104         (b) object rape, in violation of Section 76-5-402.2;
- 105         (c) forcible sodomy, in violation of Section 76-5-403;
- 106         (d) forcible sexual abuse, in violation of Section 76-5-404;
- 107         (e) aggravated sexual assault, in violation of Section 76-5-405; or
- 108         (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).
- 109 (5) Consent of a vulnerable adult to an act described in Subsection (2)(b) is not a defense to
- 110         prosecution under this section.
- 111 (6) This section does not apply if the actor is married to, cohabiting with, or has a
- 112         pre-existing consensual sexual relationship with the vulnerable adult before the
- 113         vulnerable adult:
- 114         (a) is placed under the care or responsibility of the actor; or
- 115         (b) becomes a patient of, or receives services from, the health care facility or human
- 116                 services program where the actor is employed, volunteers, or otherwise assists.
- 117         Section 2. **Effective date.**
- 118         This bill takes effect on May 7, 2025.