

Jen Plumb proposes the following substitute bill:

Care Provider Abuse Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor: Mark A. Strong

LONG TITLE

General Description:

This bill addresses sexual misconduct between certain care providers and individuals experiencing a vulnerability.

Highlighted Provisions:

This bill:

- defines terms; and
- makes it a criminal offense for certain care providers to have sexual relations with an individual experiencing a vulnerability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-5-417, Utah Code Annotated 1953

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

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

76-5-417 . Care provider sexual relations with an individual experiencing a vulnerability.

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

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

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

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

- (iv) "End stage renal disease facility" means the same as that term is defined in Section 26B-2-201.
- (v) "General acute hospital" means the same as that term is defined in Section 26B-2-201.
- (vi) "Health care facility" means:
- (A) a general acute hospital;
 - (B) a specialty hospital;
 - (C) a home health agency;
 - (D) a hospice;
 - (E) a nursing care facility;
 - (F) an assisted living facility;
 - (G) a birthing center;
 - (H) an ambulatory surgical facility;
 - (I) a small health care facility;
 - (J) a health care facility owned or operated by a health maintenance organization;
- or
- (K) an end stage renal disease facility.
- (vii) "Health care provider" means an individual listed in Subsection 78B-3-403(12).
- (viii) "Health maintenance organization" means the same as that term is defined in Section 26B-2-201.
- (ix)(A) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff individuals who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.
- (B) "Home health agency" includes an individual who provides services under the authority of a private license.
- (x) "Hospice" means the same as that term is defined in Section 26B-2-201.
- (xi) "Human services program" means the same as that term is defined in Section 26B-2-101.
- (xii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
- (xiii) "Individual experiencing a vulnerability" means an individual who is 18 years old or older and possesses a physical or mental impairment, permanent or temporary, that substantially affects the individual's ability to:

- 64 (A) provide personal protection;
65 (B) provide necessities such as food, shelter, clothing, or medical or other health
66 care;
67 (C) obtain services necessary for health, safety, or welfare;
68 (D) carry out the activities of daily living; or
69 (E) manage the adult's own resources.
- 70 (xiv) "Nursing care facility" means the same as that term is defined in Section
71 26B-2-201.
- 72 (xv) "Sexual intercourse" means any penetration, however slight, of:
73 (A) the genitals or anus of an individual by another individual using any body
74 part, object, or substance; or
75 (B) the mouth of an individual by another individual's genitals.
- 76 (xvi) "Small health care facility" means the same as that term is defined in Section
77 26B-2-201.
- 78 (xvii) "Specialty hospital" means the same as that term is defined in Section
79 26B-2-201.
- 80 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 81 (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor
82 commits care provider sexual relations with an individual experiencing a vulnerability if:
83 (a)(i) the actor is employed by, volunteers for, or otherwise assists a health care
84 facility or human services program; or
85 (ii) the actor is a health care provider;
- 86 (b)(i) the actor has sexual intercourse with an individual experiencing a vulnerability;
87 or
88 (ii) the actor with the intent to arouse or gratify the sexual desire of any individual:
89 (A) touches, whether over or under the clothing, the anus, buttocks, pubic area, or
90 any part of the genitals of an individual experiencing a vulnerability;
91 (B) touches, whether over or under the clothing, the breast of an individual
92 experiencing a vulnerability; or
93 (C) otherwise takes indecent liberties with an individual experiencing a
94 vulnerability;
- 95 (c) the individual experiencing a vulnerability described in Subsection (2)(b) is:
96 (i) currently under the care or responsibility of the actor; or
97 (ii) currently a patient of, or receiving services from, the health care facility or human

98 services program where the actor is employed, volunteers, or otherwise assists; and
99 (d) the actor knows, or should have known, that at the time the actor committed the acts
100 described in Subsection (2)(b) against the individual experiencing a vulnerability, the
101 individual was under the care or responsibility of:

102 (i) the actor; or

103 (ii) the health care facility or human services program where the actor is employed,
104 volunteers, or otherwise assists.

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

106 (4) The offenses referred to in Subsection (2) are:

107 (a) rape, in violation of Section 76-5-402;

108 (b) object rape, in violation of Section 76-5-402.2;

109 (c) forcible sodomy, in violation of Section 76-5-403;

110 (d) forcible sexual abuse, in violation of Section 76-5-404;

111 (e) aggravated sexual assault, in violation of Section 76-5-405; or

112 (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

113 (5) Consent of an individual experiencing a vulnerability to an act described in Subsection
114 (2)(b) is not a defense to prosecution under this section.

115 (6) This section does not apply if the actor is married to, cohabiting with, or has a
116 pre-existing consensual sexual relationship with the individual experiencing a
117 vulnerability before the individual experiencing a vulnerability:

118 (a) is placed under the care or responsibility of the actor; or

119 (b) becomes a patient of, or receives services from, the health care facility or human
120 services program where the actor is employed, volunteers, or otherwise assists.

121 **Section 2. Effective date.**

122 This bill takes effect on May 7, 2025.