

UTAH STATE SENATE

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BIGAMY AMENDMENTS

Under Utah criminal code, a person is guilty of bigamy if a married person **purports to marry and cohabits** with the other person. The crime of bigamy is a third degree felony, which carries a fine of up to \$5,000 and up to five years in prison. Bigamists who also commit other serious crimes may be charged with a second degree felony, as is a person convicted of bigamy involving a minor. The Utah Constitution states that “polygamous or plural marriages are forever prohibited.”

Bigamy Became a Felony in 1935

In an attempt to strike at the heart of the practice of plural marriage, unlawful cohabitation was made a felony in March 1935. Despite various modifications to the bigamy statute, cohabitation has remained on the books as a felony since that time.

The Consequences of Targeting Polygamists

Polygamous families began moving to Short Creek, now known as Hildale and Colorado City, to escape the reach of government. The first raid occurred in August 1935, followed by more raids and prosecutions in the 1940s and 1950s. The state also engaged in the wide-scale removal of children from polygamous families during those years. Despite the criminalization of cohabitation and targeted enforcement of the law, polygamous communities continued to grow. Far from deterring the practice, **these government actions merely isolated polygamous families, drove them underground, instilled fear, and created a culture of secrecy within their communities.**



Secrecy Has Bred Fear and Abuse

In order to address the problems that exist among some polygamous communities, we must also acknowledge that there are many good plural families who raise children in loving homes and are otherwise law-abiding citizens. Much of the harm we see is a direct result of the fear-driven **secrecy and isolation that gives perpetrators the opportunity to prey upon vulnerable people**, rather than a direct result of polygamy itself.

Due to the fear of imprisonment, losing employment, not being treated fairly, or having children taken into state custody, Utah is experiencing a human rights crisis. The result of our harsh bigamy law is an environment in which crime often goes unreported, victims are silenced, and perpetrators are empowered to manipulate and abuse people who worry about more raids, child removals, and prosecutions.

We have visited and interviewed dozens of current and former polygamists, along with victims of crime, prosecutors, social workers, and others. It is our conclusion that the best way to solve these problems is through increased societal integration, which can only come through decriminalizing otherwise law-abiding polygamists. **The wall Utah has built to keep people out of polygamy is the very wall that is trapping them inside.**

Utah is Uniquely Punitive of Polygamists

Not only does Utah have the harshest bigamy laws west of the Mississippi, it is one of only a few states that bans what polygamists do: cohabit. Like Utah, Idaho and Arizona both have polygamy prohibitions in their state constitutions, but **neither state outlaws cohabitation**. In fact, all but two western states only outlaw “fraudulent” bigamy in which a person marries someone under false pretenses.

Law Enforcement’s Current Practice

The Utah Attorney General’s Office has a written policy of not prosecuting polygamists unless another crime has occurred. County attorneys have adopted similar policies. While it may be tempting to leave the status quo in place, doing so only perpetuates the root problems. A prosecutorial policy can change at any time. **Formally making the change in state law will grant a measure of certainty that over time will help to rebuild lost trust.** We can address the human rights crisis the law has created by building a bridge to replace the wall that has existed for nearly a century.

Lowering the Penalty Won’t Increase Polygamy

Polygamists living in friendlier states with no history of government persecution are experiencing a decline in their congregations. **Much of that attrition is attributed to better societal integration.** Public education introduces children to perspectives that lead many to choose not to live a polygamous lifestyle as adults. Children in closed societies—especially young girls—are often barred from education and assimilation opportunities that may provide broader alternatives.

Conclusion

Utah’s bigamy law has failed to stop polygamy, but it has enabled abusers to oppress victims in a shadow society. Coupled with the history of government persecution, Utah’s bigamy statute has long perpetuated a climate of secrecy among many polygamist populations, where **people like Warren Jeffs have weaponized Utah law in order to abuse women and children.**

It is time to re-evaluate Utah’s statute. Sunlight is the best disinfectant, and the emerging consensus of law enforcement, social workers, education professionals, and polygamist families is that removing the criminal consequence of their lifestyle is a necessary step to fix decades of problems.

Our proposed legislation aims to **solve the root problem of fear of government persecution by reducing the crime of bigamy from a third degree felony to an infraction.** We intend to keep the current strong penalties in place for bigamists who also commit other serious crimes, including child bigamy. Introducing light through legal certainty will help resolve this human rights crisis over time.

Bigamy Crime Designations

