



UTAH STATE LEGISLATURE

JUDICIARY INTERIM COMMITTEE

Utah State Senate
Utah House of Representatives

May 24, 2022
Senator Keith Grover, Senate Chair
Representative Ryan D. Wilcox, House Chair
Law Enforcement and Criminal Justice Interim Committee
Utah State Legislature

RE: Referral of Court Decision Regarding the Aggravated Arson Statute

Dear Senator Grover and Representative Wilcox,

In its May meeting, the Judiciary Interim Committee reviewed Utah appellate court decisions calling upon the Legislature to clarify or modify a statute. One of the cases discussed by the Committee was *State v. Carter*, 2022 UT App 9, 504 P.3d 179. In *State v. Carter*, the Utah Court of Appeals raised a concern about the definition of “habitable structure” in the aggravated arson statutory scheme.

Under the aggravated arson statute (Utah Code § 76-6-103(1)), a person is guilty of aggravated arson if the person damages, by means of fire or explosives, a habitable structure. Habitable structure is defined as “any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging, or assembling persons, or conducting business whether a person is actually present or not.” Utah Code § 76-6-101(1)(b). However, the commonly understood meaning of habitable structure is that the structure is “capable of being lived in.” *Carter*, 2019 UT App 9, ¶ 18. The Court implies that the statutory definition contradicts the commonly understood meaning because you may have a structure that is understood to be “habitable” but does not meet the statutory definition.

The Judiciary Interim Committee moved by a majority vote to refer this issue to the Law Enforcement and Criminal Justice Interim Committee for its consideration as to whether the statute should be amended to address this issue.

Sincerely,

Senator Todd D. Weiler
Senate Chair
Judiciary Interim Committee

Representative Jon Hawkins
House Chair
Judiciary Interim Committee