

## **Part 4**

### **Limitations and Special Provisions on Sentences**

#### **76-3-401 Concurrent or consecutive sentences -- Limitations -- Definition.**

- (1) A court shall determine, if a defendant has been adjudged guilty of more than one felony offense, whether to impose concurrent or consecutive sentences for the offenses. The court shall state on the record and shall indicate in the order of judgment and commitment:
  - (a) if the sentences imposed are to run concurrently or consecutively to each other; and
  - (b) if the sentences before the court are to run concurrently or consecutively with any other sentences the defendant is already serving.
- (2) In determining whether state offenses are to run concurrently or consecutively, the court shall consider the gravity and circumstances of the offenses, the number of victims, and the history, character, and rehabilitative needs of the defendant.
- (3) The court shall order that sentences for state offenses run consecutively if the later offense is committed while the defendant is imprisoned or on parole, unless the court finds and states on the record that consecutive sentencing would be inappropriate.
- (4) If a written order of commitment does not clearly state whether the sentences are to run consecutively or concurrently, the Board of Pardons and Parole shall request clarification from the court. Upon receipt of the request, the court shall enter a clarified order of commitment stating whether the sentences are to run consecutively or concurrently.
- (5) A court may impose consecutive sentences for offenses arising out of a single criminal episode as defined in Section 76-1-401.
- (6)
  - (a) If a court imposes consecutive sentences, the aggregate maximum of all sentences imposed may not exceed 30 years imprisonment, except as provided under Subsection (6)(b).
  - (b) The limitation under Subsection (6)(a) does not apply if:
    - (i) an offense for which the defendant is sentenced authorizes the death penalty or a maximum sentence of life imprisonment; or
    - (ii) the defendant is convicted of an additional offense based on conduct which occurs after his initial sentence or sentences are imposed.
- (7) The limitation in Subsection (6)(a) applies if a defendant:
  - (a) is sentenced at the same time for more than one offense;
  - (b) is sentenced at different times for one or more offenses, all of which were committed prior to imposition of the defendant's initial sentence; or
  - (c) has already been sentenced by a court of this state other than the present sentencing court or by a court of another state or federal jurisdiction, and the conduct giving rise to the present offense did not occur after his initial sentencing by any other court.
- (8) When the limitation of Subsection (6)(a) applies, determining the effect of consecutive sentences and the manner in which they shall be served, the Board of Pardons and Parole shall treat the defendant as though he has been committed for a single term that consists of the aggregate of the validly imposed prison terms as follows:
  - (a) if the aggregate maximum term exceeds the 30-year limitation, the maximum sentence is considered to be 30 years; and
  - (b) when indeterminate sentences run consecutively, the minimum term, if any, constitutes the aggregate of the validly imposed minimum terms.

- (9) When a sentence is imposed or sentences are imposed to run concurrently with the other or with a sentence presently being served, the term that provides the longer remaining imprisonment constitutes the time to be served.
- (10) This section may not be construed to restrict the number or length of individual consecutive sentences that may be imposed or to affect the validity of any sentence so imposed, but only to limit the length of sentences actually served under the commitments.
- (11) This section may not be construed to limit the authority of a court to impose consecutive sentences in misdemeanor cases.
- (12) As used in this section, "imprisoned" means sentenced and committed to a secure correctional facility as defined in Section 64-13-1, the sentence has not been terminated or voided, and the person is not on parole, regardless of where the person is located.

Amended by Chapter 129, 2002 General Session

**76-3-401.5 Concurrent or consecutive sentence with a juvenile disposition.**

- (1) As used in this section:
  - (a) "Authority" means the Youth Parole Authority created in Section 80-5-701.
  - (b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.
  - (c) "Division" means the Division of Juvenile Justice and Youth Services created in Section 80-5-103.
  - (d)
    - (i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection 80-6-703(2).
    - (ii) "Juvenile disposition" includes an order for secure care under Subsection 80-6-705(1).
  - (e) "Secure correctional facility" means the same as that term is defined in Section 64-13-1.
  - (f) "Secure care" means the same as that term is defined in Section 80-1-102.
- (2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court may not terminate the juvenile disposition for the defendant when:
  - (a) the defendant is convicted of an offense; and
  - (b) the court imposes a sentence under Section 76-3-201 for the offense.
- (3)
  - (a) If a defendant who is 18 years old or older is convicted and sentenced for an offense and the defendant is serving a juvenile disposition at the time of sentencing, the court shall determine whether the sentence is to run concurrently or consecutively to the juvenile disposition.
  - (b) The court shall state on the record and in the order of judgment and commitment whether the sentence imposed is to run concurrently or consecutively with the juvenile disposition.
  - (c) In determining whether a sentence is to run concurrently or consecutively with a juvenile disposition, the court shall consider:
    - (i) the gravity and circumstances of the offense for which the defendant is convicted;
    - (ii) the number of victims; and
    - (iii) the history, character, and rehabilitative needs of the defendant.
  - (d) If an order of judgment and commitment does not clearly state whether the sentence is to run consecutively or concurrently with the juvenile disposition, the division shall request clarification from the court.
  - (e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified order of judgment and commitment stating whether the sentence is to run concurrently or consecutively to the juvenile disposition.

- (4) If a court orders a sentence for imprisonment to run concurrently with a juvenile disposition for secure care, the defendant shall serve the sentence in secure care until the juvenile disposition is terminated by the authority in accordance with Section 80-6-804.
- (5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a juvenile disposition for secure care and the disposition is terminated before the defendant's sentence for imprisonment in the county jail is terminated, the division shall:
  - (a) notify the county jail at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from secure care; and
  - (b) facilitate the transfer or release of the defendant in accordance with the order of judgment and commitment imposed by the court.
- (6)
  - (a) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care:
    - (i) the board has authority over the defendant for purposes of ordering parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, restitution, and any other authority granted by law; and
    - (ii) the court and the division shall immediately notify the board that the defendant will remain in secure care as described in Subsection (4) for the board to schedule a hearing for the defendant in accordance with board procedures.
  - (b) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care and the juvenile disposition is terminated before the defendant's sentence is terminated, the division shall:
    - (i) notify the board and the Department of Corrections at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure care; and
    - (ii) facilitate a release or transfer of the defendant in accordance with the order of judgment and commitment imposed by the court.

Amended by Chapter 240, 2024 General Session

**76-3-402 Conviction of lower degree of offense -- Procedure and limitations.**

- (1) As used in this section:
  - (a) "Lower degree of offense" includes an offense for which:
    - (i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and
    - (ii) the court removes the statutory enhancement in accordance with this section.
  - (b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.
  - (c)
    - (i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.
    - (ii) "Rehabilitation program" includes:
      - (A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;
      - (B) a residential vocational or life skills program, as that term is defined in Section 13-53-102;
      - (C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;
      - (D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;
      - (E) a youth program, as that term is defined in Section 26B-2-101;

- (F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;
  - (G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or
  - (H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).
- (d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.
- (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- (f)
- (i) "Violent felony" means, except as provided in Subsection (1)(f)(ii), the same as that term is defined in Section 76-3-203.5.
  - (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:
    - (A) the purchase or possession of a dangerous weapon or firearm by a restricted person under Section 76-11-305 or 76-11-306;
    - (B) unlawful conduct involving an explosive, chemical, or incendiary device under Subsection 76-15-210(2)(a); or
    - (C) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211.
- (2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:
- (a) takes into account:
    - (i) the nature and circumstances of the offense of which the defendant was found guilty; and
    - (ii) the history and character of the defendant;
  - (b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and
  - (c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.
- (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:
- (a) after the defendant is successfully discharged from probation or parole for the conviction; and
  - (b) if the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice.
- (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;
  - (b)
    - (i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or
    - (ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;
  - (c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);
  - (d) there are no criminal proceedings pending against the defendant;
  - (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

- (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
  - (g) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice.
- (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- (a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;
  - (b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;
  - (c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);
  - (d) there are no criminal proceedings pending against the defendant;
  - (e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
  - (f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
  - (g) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice.
- (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
- (a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;
  - (b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);
  - (c) there are no criminal proceedings pending against the defendant;
  - (d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;
  - (e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and
  - (f) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice.
- (7)
- (a) Upon a joint motion from the prosecuting attorney and the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:
    - (i) the defendant, within one year after sentencing, provides substantial assistance in the criminal investigation, arrest, or prosecution of another individual; and
    - (ii) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice and public safety.
  - (b) In determining whether the defendant has provided substantial assistance under Subsection (7)(a)(i), the court shall consider:
    - (i) the significance and usefulness of the defendant's assistance, taking into account the prosecuting attorney's evaluation of the assistance rendered;
    - (ii) the truthfulness, completeness, and reliability of information or testimony provided by the defendant;
    - (iii) the nature and extent of the defendant's assistance;
    - (iv) any injury suffered or any danger or risk of injury to the defendant or the defendant's family resulting from the defendant's assistance;
    - (v) the timeliness of the defendant's assistance; and
    - (vi) any other factor the court considers relevant.

- (8) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), (6), or (7):
- (a) the court shall consider:
    - (i) the nature, circumstances, and severity of the offense for which a reduction is sought;
    - (ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and
    - (iii) any input from a victim of the offense; and
  - (b) the court may consider:
    - (i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;
    - (ii) the defendant's criminal history;
    - (iii) the defendant's employment and community service history;
    - (iv) whether the defendant participated in a rehabilitative program and successfully completed the program;
    - (v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;
    - (vi) whether the level of the offense has been reduced by law after the defendant's conviction;
    - (vii) any potential impact that the reduction would have on public safety; or
    - (viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.
- (9)
- (a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), (6), or (7) after:
    - (i) notice is provided to the other party;
    - (ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and
    - (iii) a hearing is held if a hearing is requested by either party.
  - (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), (6), or (7).
  - (c) In a motion under Subsection (3), (4), (5), (6), or (7) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), (6), or (7) are met.
  - (d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.
- (10) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), (6), or (7) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.
- (11)
- (a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.
  - (b) An offense may not be reduced under this section by more than two degrees.
- (12) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 77, Chapter 40a, Expungement of Criminal Records.
- (13) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:
- (a) the reduction is specifically precluded by law; or

- (b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.
- (14) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.
- (15)
  - (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 until the registration requirements under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, have expired.
  - (b) An individual required to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 and required to register for the individual's lifetime as described in Subsection 53-29-203(1)(b), may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

Amended by Chapter 354, 2026 General Session

**76-3-403 Credit for good behavior against jail sentence for misdemeanors and certain felonies.**

In any commitment for incarceration in a county jail or detention facility, other than the Utah State Prison, the custodial authority may in its discretion and upon good behavior of the inmate allow up to 10 days credit against the sentence to be served for every 30 days served or up to two days credit for every 10 days served when the period to be served is less than 30 days if:

- (1) the incarceration is for a misdemeanor offense, and the sentencing judge has not entered an order to the contrary; or
- (2) the incarceration is part of a probation agreement for a felony offense, and the sentencing district judge has not entered an order to the contrary.

Amended by Chapter 91, 1998 General Session

**76-3-403.5 Work or school release from county jail or facility -- Conditions.**

When an inmate is incarcerated in a county jail or in a detention facility, the custodial authority may, in accordance with the release policy of the facility, allow the inmate to work outside of the jail or facility as part of a jail or facility supervised work detail, to seek or work at employment, or to attend an educational institution, if the inmate's incarceration:

- (1) is not for an offense for which release is prohibited under state law; and
- (2)
  - (a) is for a misdemeanor offense, and the sentencing judge has not entered an order prohibiting release under this section; or
  - (b) is part of a probation agreement for a felony offense, and the sentencing district judge has not entered an order prohibiting release under this section.

Amended by Chapter 148, 2007 General Session

**76-3-405 Limitation on sentence where conviction or prior sentence set aside.**

- (1) Where a conviction or sentence has been set aside on direct review or on collateral attack, the court shall not impose a new sentence for the same offense or for a different offense based

on the same conduct which is more severe than the prior sentence less the portion of the prior sentence previously satisfied.

(2) This section does not apply when:

- (a) the increased sentence is based on facts which were not known to the court at the time of the original sentence, and the court affirmatively places on the record the facts which provide the basis for the increased sentence; or
- (b) a defendant enters into a plea agreement with the prosecution and later successfully moves to invalidate the defendant's conviction, in which case the defendant and the prosecution stand in the same position as though the plea bargain, conviction, and sentence had never occurred.

Amended by Chapter 302, 2025 General Session

**76-3-406 Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.**

(1) As used in this section, "attempted child sexual offense" means an attempt to commit a felony that is:

- (a) rape of a child as described in Section 76-5-402.1;
- (b) object rape of a child as described in Section 76-5-402.3;
- (c) sodomy on a child as described in Section 76-5-403.1; or
- (d) aggravated sexual abuse of a child as described in Section 76-5-404.3.

(2) Except as provided in Subsection (3), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense, or order hospitalization, if the effect of which would in any way shorten the prison sentence for:

(a) an actor who commits a capital felony or a first degree felony, or attempts to commit a capital felony or a first degree felony, that is:

- (i) aggravated child abuse as described in Section 76-5-109.2;
- (ii) child torture as described in Section 76-5-109.4;
- (iii) aggravated murder as described in Section 76-5-202;
- (iv) murder as described in Section 76-5-203;
- (v) child kidnapping as described in Section 76-5-301.1;
- (vi) aggravated kidnapping as described in Subsection 76-5-302(3)(b);
- (vii) rape as described in Subsection 76-5-402(3)(b), (3)(c), (3)(d), or (4);
- (viii) rape of a child as described in Section 76-5-402.1;
- (ix) object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), (3)(d), or (4);
- (x) object rape of a child as described in Section 76-5-402.3;
- (xi) forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), (3)(d), or (4);
- (xii) sodomy on a child as described in Section 76-5-403.1;
- (xiii) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);
- (xiv) aggravated sexual abuse of a child as described in Section 76-5-404.3; or
- (xv) aggravated sexual assault as described in Section 76-5-405; or

(b) an offense for which the penalty has been increased under Section 76-3-407, Repeat and habitual sex offenders.

(3)

(a) Except as provided in Subsection (3)(b), a court may suspend the execution or imposition of a prison sentence for an actor who is convicted of an attempt to commit a felony described in Subsection (2)(a) if the court:

- (i) makes a finding on the record that:

- (A) details why it is in the interests of justice not to execute or impose the prison sentence; and
- (B) the actor does not pose a significant safety risk to the victim of the attempted crime or the general public; and
- (ii) orders the actor to complete the terms and conditions of probation that is supervised by the Department of Corrections.
- (b) If a court suspends a sentence for an attempted child sexual offense the court shall follow the provisions described in Section 76-5-406.5.
- (4) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the actor:
  - (a) was under 18 years old at the time of the offense; and
  - (b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.
- (5) Except as provided in Subsection 77-16a-103(6) or (7), a court may not grant probation, suspend the execution or imposition of a sentence, enter a judgment for a lower category of offense under Section 76-3-402, or order hospitalization under Section 76-3-201 or 77-18-105 or Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, if the court is prohibited from doing so by this section.

Repealed and Re-enacted by Chapter 193, 2025 General Session

**76-3-406.5 Aggravating factors in imprisonment for certain criminal homicide cases.**

- (1) As used in this section:
  - (a) "Cohabitant" has the same definition as in Section 78B-7-102.
  - (b) "Position of trust" includes the position of a spouse, parent, or cohabitant.
- (2) It is an aggravating factor that the actor occupied a position of trust in relation to the victim.
- (3) The Board of Pardons and Parole shall consider the aggravating factor in Subsection (2) in determining the length of imprisonment for an actor convicted of:
  - (a) aggravated murder under Section 76-5-202;
  - (b) murder under Section 76-5-203;
  - (c) manslaughter under Section 76-5-205; or
  - (d) aiding or encouraging suicide under Section 76-5-211.
- (4) The sentencing court shall consider the aggravating factor in Subsection (2) in sentencing an actor convicted of:
  - (a) manslaughter under Section 76-5-205; or
  - (b) aiding or encouraging suicide under Section 76-5-211.

Amended by Chapter 330, 2026 General Session

**76-3-407 Repeat and habitual sex offenders -- Additional prison term for prior felony convictions. -- Mandatory imprisonment for entire term of imprisonment.**

- (1) As used in this section:
  - (a)
    - (i) "Prior sexual offense" means:
      - (A) a felony offense described in Chapter 5, Part 4, Sexual Offenses;
      - (B) sexual exploitation of a minor, Section 76-5b-201;
      - (C) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
      - (D) possession of apparent child sexual abuse material, Section 76-5b-207;

- (E) distribution of apparent child sexual abuse material, Section 76-5b-208;
  - (F) unlawful activity regarding obscene material depicting the sexual abuse of a minor, Section 76-5b-209;
  - (G) a felony attempt to commit an offense described in Subsections (1)(a)(i)(A) through (F); or
  - (H) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(a)(i)(A) through (G).
- (ii) "Prior sexual offense" does not include:
- (A) lewdness, as described in Section 76-5-419; or
  - (B) lewdness involving a child, as described in Section 76-5-420.
- (b)
- (i) "Sexual offense" means:
- (A) an offense that is a second or third degree felony, or an attempted offense, which attempt is a second or third degree felony, described in Chapter 5, Part 4, Sexual Offenses;
  - (B) sexual exploitation of a minor, Section 76-5b-201;
  - (C) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
  - (D) possession of apparent child sexual abuse material, Section 76-5b-207;
  - (E) distribution of apparent child sexual abuse material, Section 76-5b-208;
  - (F) unlawful activity regarding obscene material depicting the sexual abuse of a minor, Section 76-5b-209;
  - (G) a felony attempt to commit an offense described in Subsections (1)(b)(i)(B) through (F); or
  - (H) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(b)(i)(A) through (G).
- (ii) "Sexual offense" does not include:
- (A) lewdness, as described in Section 76-5-419; or
  - (B) lewdness involving a child, as described in Section 76-5-420.
- (2) Notwithstanding any other provision of law, the minimum and maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:
- (a) the defendant was convicted of a prior sexual offense; and
  - (b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a) before the defendant committed the sexual offense for which the defendant is being sentenced.
- (3) The increased term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.
- (4) If a defendant's conviction is increased under this section, the defendant's entire sentence for the conviction is subject to mandatory imprisonment under Section 76-3-406.

Amended by Chapter 358, 2026 General Session

**76-3-409 Child abuse or sex offense against child -- Treatment of offender or victim -- Payment of costs.**

- (1) Any person convicted in the district court of child abuse, or a sexual offense if the victim is under 18 years old, may be ordered to participate in treatment or therapy under the supervision of the Division of Adult Probation and Parole created in Section 64-14-202, in cooperation with the division of children, youth, and families until the court is satisfied that such treatment or therapy has been successful or that no further benefit to the convicted offender would result if such treatment or therapy were continued. The court may also order treatment of the victim if it believes the same would be beneficial under the circumstances. Nothing in this section shall preclude the court from imposing any additional sentence as provided by law.

- (2) The convicted offender shall be ordered to pay, to the extent that the convicted offender is able, the costs of the convicted offender's treatment, together with treatment costs incurred by the victim and any administrative costs incurred by the appropriate state agency in the supervision of such treatment. If the convicted offender is unable to pay all or part of the costs of treatment, the court may order the appropriate state agency to pay such costs to the extent funding is provided by the Legislature for such purpose and shall order the convicted offender to perform public service work as compensation for the cost of treatment.

Amended by Chapter 214, 2025 General Session

Amended by Chapter 302, 2025 General Session

**76-3-410 Compensatory service -- Graffiti penalties.**

- (1) If an actor uses graffiti and is convicted under Section 76-6-106, 76-6-106.1, 76-6-107, or 76-6-206 for the use of graffiti, the court may, as a condition of probation under Subsection 77-18-105(6), order the actor to clean up graffiti of the actor and any other at a time and place within the jurisdiction of the court.
  - (a) For a first conviction or adjudication, the court may require the actor to clean up graffiti for not less than eight hours.
  - (b) For a second conviction or adjudication, the court may require the actor to clean up graffiti for not less than 16 hours.
  - (c) For a third conviction or adjudication, the court may require the actor to clean up graffiti for not less than 24 hours.
- (2) The actor convicted under Section 76-6-106, 76-6-106.1, 76-6-206, or 76-6-107 shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause.
- (3) The court may also require the actor to perform other alternative forms of restitution or repair to the damaged property in accordance with Subsection 77-18-105(6).

Renumbered and Amended by Chapter 111, 2023 General Session