

## **Part 1**

### **Assault and Related Offenses**

#### **76-5-101 Definitions.**

Unless otherwise provided, as used in this part:

- (1) "Detained individual" means an individual detained under Section 77-7-15.
- (2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the Division of Juvenile Justice Services regardless of whether the confinement is legal.

Amended by Chapter 181, 2022 General Session

#### **76-5-102 Assault -- Penalties.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits assault if the actor:
  - (a) attempts, with unlawful force or violence, to inflict bodily injury on an individual; or
  - (b) commits an act, with unlawful force or violence, that:
    - (i) causes bodily injury to an individual; or
    - (ii) creates a substantial risk of bodily injury to an individual.
- (3)
  - (a) A violation of Subsection (2) is a class B misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if:
    - (i) the actor causes substantial bodily injury to an individual; or
    - (ii) the individual is pregnant and the actor has knowledge of the pregnancy.
- (4) The fact that the actor caused serious bodily injury to an individual is not a defense to a violation of this section.

Amended by Chapter 181, 2022 General Session

#### **76-5-102.1 Negligently operating a vehicle resulting in injury.**

- (1)
  - (a) As used in this section:
    - (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.
    - (ii) "Drug" means the same as that term is defined in Section 76-5-207.
    - (iii) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.
    - (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits negligently operating a vehicle resulting in injury if the actor:
  - (a)
    - (i) operates a vehicle in a negligent manner causing bodily injury to another; and
    - (ii)
      - (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
      - (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

- (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or
- (b)
  - (i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and
  - (ii) has in the actor's body any measurable amount of a controlled substance.
- (3) Except as provided in Subsection (4), a violation of Subsection (2) is:
  - (a)
    - (i) a class A misdemeanor; or
    - (ii) a third degree felony if the bodily injury is serious bodily injury; and
  - (b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.
- (4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2) (b) if:
  - (a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;
  - (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
  - (c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:
    - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and
    - (ii) the substance was administered to the actor by the medical researcher.
- (5)
  - (a) A judge imposing a sentence under this section may consider:
    - (i) the sentencing guidelines developed in accordance with Section 63M-7-404;
    - (ii) the defendant's history;
    - (iii) the facts of the case;
    - (iv) aggravating and mitigating factors; or
    - (v) any other relevant fact.
  - (b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.
  - (c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.
  - (d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).
  - (e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.
  - (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.
  - (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 415, 2023 General Session

**76-5-102.3 Assault or threat of violence against a school employee.**

(1)

- (a) As used in this section:
  - (i) "Assault" means an offense under Section 76-5-102.
  - (ii) "Employee" includes a volunteer.
  - (iii) "Threat of violence" means an offense under Section 76-5-107.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits assault or threat of violence against a school employee if:
  - (a) the actor commits assault or a threat of violence against an employee of a public or private school;
  - (b) the actor has knowledge that the individual is an employee; and
  - (c) the employee is acting within the scope of the employee's authority as an employee.
- (3) A violation of Subsection (2) is a class A misdemeanor.

Amended by Chapter 181, 2022 General Session

**76-5-102.4 Assault against peace officer or a military service member in uniform -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Assault" means an offense under Section 76-5-102.
    - (ii) "Military service member in uniform" means:
      - (A) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or
      - (B) a member of the National Guard serving as provided in Section 39A-3-103.
    - (iii) "Peace officer" means:
      - (A) a law enforcement officer certified under Section 53-13-103;
      - (B) a correctional officer under Section 53-13-104;
      - (C) a special function officer under Section 53-13-105; or
      - (D) a federal officer under Section 53-13-106.
    - (iv) "Threat of violence" means an offense under Section 76-5-107.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor commits assault against a peace officer if:
    - (i) the actor commits an assault or threat of violence against a peace officer, with knowledge that the peace officer is a peace officer; and
    - (ii) at the time of the assault or threat of violence, the peace officer was acting within the scope of authority as a peace officer.
  - (b) An actor commits an assault or threat of violence against a military service member in uniform if:
    - (i) the actor commits an assault or threat of violence against a military service member in uniform; and
    - (ii) at the time of the assault or threat of violence, the service member was on orders and acting within the scope of authority granted to the military service member in uniform.
- (3)
  - (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:
    - (i) has been previously convicted of a class A misdemeanor or a felony violation of this section;
    - or

- (ii) causes substantial bodily injury.
- (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor uses:
  - (i) a dangerous weapon; or
  - (ii) other means or force likely to produce death or serious bodily injury.
- (4) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Utah Constitution or laws, or by the United States Constitution or federal law.
- (5) An actor who violates this section shall serve, in jail or another correctional facility, a minimum of:
  - (a) 90 consecutive days for a second offense; and
  - (b) 180 consecutive days for each subsequent offense.
- (6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

Amended by Chapter 44, 2023 General Session

**76-5-102.5 Assault by prisoner.**

- (1)
  - (a) As used in this section, "assault" means an offense under Section 76-5-102.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits assault by prisoner if the actor:
  - (a) is a prisoner; and
  - (b) intending to cause bodily injury, commits an assault.
- (3) A violation of Subsection (2) is a third degree felony.

Amended by Chapter 181, 2022 General Session

**76-5-102.6 Propelling object or substance at a correctional or peace officer -- Penalties.**

- (1)
  - (a) As used in this section, "infectious agent" means the same as that term is defined in Section 26B-7-201.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits the offense of propelling an object or substance at a correctional or peace officer if the actor:
  - (a) is a prisoner or a detained individual; and
  - (b) throws or otherwise propels an object or substance at a peace officer, a correctional officer, or an employee or volunteer, including a health care provider.
- (3)
  - (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if:
    - (i) the object or substance causes substantial bodily injury to the peace officer, the correctional officer, or the employee or volunteer, including a health care provider; or
    - (ii)
      - (A) the object or substance is:
        - (I) blood, urine, semen, or fecal material;
        - (II) an infectious agent or a material that carries an infectious agent;

- (III) vomit or a material that carries vomit; or
  - (IV) the actor's saliva, and the actor knows the actor is infected with HIV, hepatitis B, or hepatitis C; and
  - (B) the object or substance comes into contact with any portion of the officer's, employee's, volunteer's, or health care provider's face, including the eyes or mouth, or comes into contact with any open wound on the officer's, employee's, volunteer's, or health care provider's body.
- (4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 330, 2023 General Session

***Superseded 7/1/2024***

**76-5-102.7 Assault or threat of violence against health care provider, emergency medical service worker, or health facility employee, owner, or contractor -- Penalty.**

- (1)
- (a) As used in this section:
    - (i) "Assault" means an offense under Section 76-5-102.
    - (ii) "Emergency medical service worker" means an individual licensed under Section 26B-4-116.
    - (iii) "Health care provider" means the same as that term is defined in Section 78B-3-403.
    - (iv) "Health facility" means:
      - (A) a health care facility as defined in Section 26B-2-201; and
      - (B) the office of a private health care provider, whether for individual or group practice.
    - (v) "Health facility employee" means an employee, owner, or contractor of a health facility.
    - (vi) "Threat of violence" means an offense under Section 76-5-107.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits assault or threat of violence against a health care provider or emergency medical service worker if:
    - (i) the actor is not a prisoner or a detained individual;
    - (ii) the actor commits an assault or threat of violence;
    - (iii) the actor knew that the victim was a health care provider or emergency medical service worker; and
    - (iv) the health care provider or emergency medical service worker was performing emergency or lifesaving duties within the scope of his or her authority at the time of the assault or threat of violence.
  - (b) An actor commits assault or threat of violence against a health facility employee if:
    - (i) the actor is not a prisoner or a detained individual;
    - (ii) the actor commits an assault or threat of violence;
    - (iii) the actor knew that the victim was a health facility employee; and
    - (iv) the health facility employee was acting within the scope of the health facility employee's duties for the health facility.
- (3)
- (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

- (i) causes substantial bodily injury; and
- (ii) acts intentionally or knowingly.

Amended by Chapter 330, 2023 General Session

**Effective 7/1/2024**

**76-5-102.7 Assault or threat of violence against health care provider, emergency medical service worker, or health facility employee, owner, or contractor -- Penalty.**

- (1)
  - (a) As used in this section:
    - (i) "Assault" means an offense under Section 76-5-102.
    - (ii) "Emergency medical service worker" means an individual licensed under Section 53-2d-402.
    - (iii) "Health care provider" means the same as that term is defined in Section 78B-3-403.
    - (iv) "Health facility" means:
      - (A) a health care facility as defined in Section 26B-2-201; and
      - (B) the office of a private health care provider, whether for individual or group practice.
    - (v) "Health facility employee" means an employee, owner, or contractor of a health facility.
    - (vi) "Threat of violence" means an offense under Section 76-5-107.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor commits assault or threat of violence against a health care provider or emergency medical service worker if:
    - (i) the actor is not a prisoner or a detained individual;
    - (ii) the actor commits an assault or threat of violence;
    - (iii) the actor knew that the victim was a health care provider or emergency medical service worker; and
    - (iv) the health care provider or emergency medical service worker was performing emergency or lifesaving duties within the scope of his or her authority at the time of the assault or threat of violence.
  - (b) An actor commits assault or threat of violence against a health facility employee if:
    - (i) the actor is not a prisoner or a detained individual;
    - (ii) the actor commits an assault or threat of violence;
    - (iii) the actor knew that the victim was a health facility employee; and
    - (iv) the health facility employee was acting within the scope of the health facility employee's duties for the health facility.
- (3)
  - (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:
    - (i) causes substantial bodily injury; and
    - (ii) acts intentionally or knowingly.

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

**76-5-102.8 Disarming a peace officer -- Penalties.**

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

- (i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.
- (ii) "Firearm" means the same as that term is defined in Section 76-10-501.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from an individual or immediate presence of an individual who the actor knows is a peace officer:
  - (a) without the consent of the peace officer; and
  - (b) while the peace officer is acting within the scope of the peace officer's authority as a peace officer.
- (3)
  - (a) A violation of Subsection (2) regarding a firearm is a first degree felony.
  - (b) A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

Amended by Chapter 181, 2022 General Session

### **76-5-102.9 Propelling a bodily substance or material -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Bodily substance or material" means:
      - (A) saliva, blood, urine, semen, or fecal material;
      - (B) an infectious agent or a material that carries an infectious agent; or
      - (C) vomit or a material that carries vomit.
    - (ii) "Infectious agent" means the same as that term is defined in Section 26B-7-201.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits propelling a bodily substance or material if the actor knowingly or intentionally throws or otherwise propels a bodily substance or material at another individual.
- (3)
  - (a) A violation of Subsection (2) is a class B misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if:
    - (i) the bodily substance or material is the actor's saliva and the actor knows the actor is infected with HIV, hepatitis B, or hepatitis C; or
    - (ii) the bodily substance or material comes into contact with any portion of the other individual's face, including the eyes or mouth, or comes into contact with any open wound on the other individual's body.
- (4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 330, 2023 General Session

### **76-5-103 Aggravated assault -- Penalties.**

- (1)
  - (a) As used in this section, "targeting a law enforcement officer" means the same as that term is defined in Section 76-5-202.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated assault if the actor:
  - (a)

- (i) attempts, with unlawful force or violence, to do bodily injury to another;
  - (ii) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or
  - (iii) commits an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and
- (b) includes in the actor's conduct under Subsection (2)(a) the use of:
- (i) a dangerous weapon;
  - (ii) any act that impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence that is likely to produce a loss of consciousness by:
    - (A) applying pressure to the neck or throat of an individual; or
    - (B) obstructing the nose, mouth, or airway of an individual; or
  - (iii) other means or force likely to produce death or serious bodily injury.
- (3)
- (a) A violation of Subsection (2) is a third degree felony.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:
    - (i) the act results in serious bodily injury; or
    - (ii) an act under Subsection (2)(b)(ii) produces a loss of consciousness.
  - (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if the conduct constitutes targeting a law enforcement officer and results in serious bodily injury.

Amended by Chapter 181, 2022 General Session

**76-5-103.5 Aggravated assault by prisoner.**

- (1)
- (a) As used in this section, "aggravated assault" means an offense under Section 76-5-103.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated assault by prisoner if the actor:
- (a) is a prisoner; and
  - (b) commits aggravated assault.
- (3)
- (a) A violation of Subsection (2) is a second degree felony.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a first degree felony if serious bodily injury was intentionally caused.

Amended by Chapter 181, 2022 General Session

**76-5-104 Consensual altercation.**

- (1) As used in this section, "ultimate fighting match" means the same as that term is defined in Section 76-9-705.
- (2) In any prosecution for criminal homicide under Part 2, Criminal Homicide, or assault as that offense is described in Section 76-5-102, it is no defense to the prosecution that the defendant was a party to any duel, mutual combat, or other consensual altercation if during the course of the duel, combat, or altercation:
- (a) any dangerous weapon was used; or
  - (b) the defendant was engaged in an ultimate fighting match.

Amended by Chapter 181, 2022 General Session



**76-5-105 Mayhem.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits mayhem if the actor unlawfully and intentionally:
  - (a) deprives an individual of a member of the individual's body;
  - (b) disables or renders useless a member of an individual's body;
  - (c) cuts out or disables an individual's tongue;
  - (d) puts out an individual's eye; or
  - (e) slits an individual's nose, ear, or lip.
- (3) A violation of Subsection (2) is a second degree felony.

Amended by Chapter 181, 2022 General Session

**76-5-106 Harassment.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits harassment if, with intent to frighten or harass another, the actor communicates a written or recorded threat to commit a violent felony.
- (3) A violation of Subsection (2) is a class B misdemeanor.

Amended by Chapter 181, 2022 General Session

**76-5-106.5 Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.**

- (1)
  - (a) As used in this section:
    - (i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:
      - (A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property:
        - (I) directly, indirectly, or through any third party; and
        - (II) by any action, method, device, or means; or
      - (B) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:
        - (I) approaches or confronts an individual;
        - (II) appears at the individual's workplace or contacts the individual's employer or coworker;
        - (III) appears at an individual's residence or contacts an individual's neighbor, or enters property owned, leased, or occupied by an individual;
        - (IV) sends material by any means to the individual or for the purpose of obtaining or disseminating information about or communicating with the individual to a member of the individual's family or household, employer, coworker, friend, or associate of the individual;
        - (V) places an object on or delivers an object to property owned, leased, or occupied by an individual, or to the individual's place of employment with the intent that the object be delivered to the individual; or
        - (VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.
    - (ii)
      - (A) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

- (B) "Emotional distress" includes significant mental or psychological suffering resulting from harm to an animal.
  - (iii) "Immediate family" means a spouse, parent, child, sibling, or any other individual who regularly resides in the household or who regularly resided in the household within the prior six months.
  - (iv) "Private investigator" means the same as that term is defined in Section 76-9-408.
  - (v) "Reasonable person" means a reasonable person in the victim's circumstances.
  - (vi) "Stalking" means an offense as described in Subsection (2).
  - (vii) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another individual's telephone or computer by addressing the communication to the recipient's telephone number.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits stalking if the actor intentionally or knowingly:
- (a) engages in a course of conduct directed at a specific individual and knows or should know that the course of conduct would cause a reasonable person:
    - (i) to fear for the individual's own safety or the safety of a third individual; or
    - (ii) to suffer other emotional distress; or
  - (b) violates:
    - (i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or
    - (ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.
- (3)
- (a) A violation of Subsection (2) is a class A misdemeanor:
    - (i) upon the actor's first violation of Subsection (2); or
    - (ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:
    - (i) has been previously convicted of an offense of stalking;
    - (ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;
    - (iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;
    - (iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or
    - (v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.
  - (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor:
    - (i) used a dangerous weapon or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;
    - (ii) has been previously convicted two or more times of the offense of stalking;
    - (iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

- (iv) has been convicted two or more times, in any combination, of offenses under Subsection (3)(b)(i), (ii), or (iii);
  - (v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or
  - (vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).
- (4) In a prosecution under this section, it is not a defense that the actor:
- (a) was not given actual notice that the course of conduct was unwanted; or
  - (b) did not intend to cause the victim fear or other emotional distress.
- (5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.
- (6)
- (a) Except as provided in Subsection (6)(b), an actor does not violate this section if the actor is acting:
    - (i) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and
    - (ii) for a legitimate official or business purpose.
  - (b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.
- (7)
- (a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be filed in accordance with Section 78B-7-902.
  - (b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.
- (8)
- (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:
    - (i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;
    - (ii) confiscating the weapon or weapons involved in the alleged stalking;
    - (iii) making arrangements for the victim and any child to obtain emergency housing or shelter;
    - (iv) providing protection while the victim removes essential personal effects;
    - (v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and
    - (vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (8)(b).
  - (b)
    - (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.
    - (ii) The written notice shall also include:
      - (A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

- (B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.
- (c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Amended by Chapter 142, 2022 General Session

Amended by Chapter 181, 2022 General Session

Amended by Chapter 418, 2022 General Session

**76-5-107 Threat of violence -- Penalty.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor commits a threat of violence if the actor:
    - (i)
      - (A) threatens to commit an offense involving bodily injury, death, or substantial property damage; and
      - (B) acts with intent to place an individual in fear of imminent serious bodily injury, substantial bodily injury, or death; or
    - (ii) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to an individual.
  - (b) A threat under this section may be express or implied.
- (3)
  - (a) A violation of Subsection (2) is a class B misdemeanor.
  - (b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.
  - (c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.
- (4) It is not a defense under this section that the actor did not attempt to or was incapable of carrying out the threat.

Amended by Chapter 181, 2022 General Session

**76-5-107.1 Threats against schools.**

- (1)
  - (a) As used in this section:
    - (i) "Hoax weapon of mass destruction" means the same as that term is defined in Section 76-10-401.
    - (ii) "School" means a preschool or a public or private elementary or secondary school.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor is guilty of making a threat against a school if the actor threatens in person or via electronic means, either with real intent or as an intentional hoax, to commit any offense involving bodily injury, death, or substantial property damage and the actor:
  - (a) threatens the use of a firearm or weapon or hoax weapon of mass destruction;
  - (b) acts with intent to:

- (i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;
  - (ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or
  - (iii) intimidate or coerce students or employees of the school; or
- (c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.
- (3)
- (a)
    - (i) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a class A misdemeanor.
    - (ii) A violation of Subsection (2)(b)(ii) is a class B misdemeanor.
    - (iii) A violation of Subsection (2)(c) is a class C misdemeanor.
  - (b)
    - (i) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to pay restitution to any federal, state, or local unit of government, or any private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate.
    - (ii) Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Section 80-6-710.
- (4) It is not a defense to this section that the actor did not attempt to carry out or was incapable of carrying out the threat.
- (5)
- (a) A violation of this section shall be reported to the local law enforcement agency.
  - (b) If the actor alleged to have violated this section is a minor, the minor may be referred to the juvenile court.
- (6) Counseling for the minor and the minor's family may be made available through state and local health department programs.

Amended by Chapter 181, 2022 General Session

**76-5-107.3 Threat of terrorism -- Penalty.**

- (1)
- (a) As used in this section:
    - (i) "Hoax weapon of mass destruction" means the same as that term is defined in Section 76-10-401.
    - (ii) "Weapon of mass destruction" means the same as that term is defined in Section 76-10-401.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits a threat of terrorism if the actor threatens to commit an offense involving bodily injury, death, or substantial property damage and the actor:
    - (i)
      - (A) threatens the use of a weapon of mass destruction; or
      - (B) threatens the use of a hoax weapon of mass destruction; or
    - (ii) acts with intent to:
      - (A) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;

- (B) prevent or interrupt the occupation of a building or a portion of the building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier; or
  - (C) cause an official or volunteer agency organized to deal with emergencies to take action due to the actor's conduct posing a serious and substantial risk to the general public.
- (b) A threat under this section may be express or implied.
- (3)
- (a)
- (i) A violation of Subsection (2)(a)(i) or (2)(a)(ii)(A) is a second degree felony.
  - (ii) A violation of Subsection (2)(a)(ii)(B) is a third degree felony.
  - (iii) A violation of Subsection (2)(a)(ii)(C) is a class B misdemeanor.
- (b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.
- (c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.
- (4) It is not a defense under this section that the actor did not attempt to carry out or was incapable of carrying out the threat.

Amended by Chapter 181, 2022 General Session

**76-5-107.5 Prohibition of "hazing" -- Definitions -- Penalties.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits hazing if the actor intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:
- (a)
- (i) endangers the mental or physical health or safety of an individual;
  - (ii) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;
  - (iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or
  - (iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation; and
- (b)
- (i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or
  - (ii) if the actor knew that the individual is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.
- (3)
- (a) A violation of Subsection (2) is a class B misdemeanor.
- (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if the act involves:
- (i) the operation or other use of a motor vehicle;

- (ii) the consumption of an alcoholic product as defined in Section 32B-1-102; or
  - (iii) the consumption of a drug or a substance as defined in Section 76-5-113.
  - (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a third degree felony if the act involves the use of a dangerous weapon.
  - (d) Notwithstanding Subsection (3)(a), (b), or (c), a violation of Subsection (2) is a third degree felony if the hazing results in serious bodily injury to an individual.
  - (e) Notwithstanding Subsection (3)(a), (b), (c), or (d), a violation of Subsection (2) is a second degree felony if hazing under Subsection (3)(d) involves the use of a dangerous weapon .
- (4)
- (a) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.
  - (b) It is not a defense to prosecution of hazing that an individual under 21 years old, against whom the hazing was directed, consented to or acquiesced in the hazing activity.
- (5)
- (a) This section does not apply to military training or other official military activities.
  - (b) Military conduct is governed by Title 39A, Chapter 5, Utah Code of Military Justice.
- (6)
- (a) A prosecution under this section does not bar a prosecution of the actor for:
    - (i) any other offense for which the actor may be liable as a party for conduct committed by the individual hazed; or
    - (ii) any offense, caused in the course of the hazing, that the actor commits against the individual hazed.
  - (b) Under Subsection (6)(a)(i) an actor may be separately punished, both for the hazing offense and the conduct committed by the individual hazed.
  - (c) Under Subsection (6)(a)(ii) an actor may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

Amended by Chapter 181, 2022 General Session

**76-5-108 Violation of protective order.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits violation of protective order if the actor:
  - (a) is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, ex parte child protective order, or foreign protection order issued under, or for the purposes of Subsection (2)(a)(i), enforceable under:
    - (i) Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;
    - (ii) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;
    - (iii) Title 78B, Chapter 7, Part 8, Criminal Protective Orders; or
    - (iv) Title 80, Utah Juvenile Code; and
  - (b) intentionally or knowingly violates that order after having been properly served or having been present, in person or through court video conferencing, when the order was issued.
- (3) A violation of Subsection (2) is a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
- (4) Violation of an order described in Subsection (2) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

Amended by Chapter 181, 2022 General Session

**76-5-109 Child abuse.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means an individual who is younger than 18 years old.
    - (ii) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:
      - (A) a bruise or other contusion of the skin;
      - (B) a minor laceration or abrasion;
      - (C) failure to thrive or malnutrition; or
      - (D) any other condition which imperils the child's health or welfare and that is not a serious physical injury.
    - (iii)
      - (A) "Serious physical injury" means any physical injury or set of injuries that:
        - (I) seriously impairs the child's health;
        - (II) involves physical torture;
        - (III) causes serious emotional harm to the child; or
        - (IV) involves a substantial risk of death to the child.
      - (B) "Serious physical injury" includes:
        - (I) fracture of any bone or bones;
        - (II) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;
        - (III) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;
        - (IV) any injury caused by use of a dangerous weapon;
        - (V) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;
        - (VI) any damage to internal organs of the body;
        - (VII) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;
        - (VIII) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;
        - (IX) any impediment of the breathing or the circulation of blood by application of pressure to the neck, throat, or chest, or by the obstruction of the nose or mouth, that is likely to produce a loss of consciousness;
        - (X) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life; or
        - (XI) unconsciousness caused by the unlawful infliction of a brain injury or unlawfully causing any deprivation of oxygen to the brain.
    - (b) Terms defined in Section 76-1-101.5 apply to this section.
  - (2) An actor commits child abuse if the actor:
    - (a) inflicts upon a child physical injury; or
    - (b) having the care or custody of such child, causes or permits another to inflict physical injury upon a child.
  - (3)
    - (a) A violation of Subsection (2) is a class A misdemeanor if done intentionally or knowingly.
    - (b) A violation of Subsection (2) is a class B misdemeanor if done recklessly.



- (c) A violation of Subsection (2) is a class C misdemeanor if done with criminal negligence.
- (4)
  - (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.
  - (b) A parent or guardian of a child does not violate this section by selecting a treatment option for a medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.
  - (c) An actor is not guilty of an offense under this section for conduct that constitutes:
    - (i) reasonable discipline or management of a child, including withholding privileges;
    - (ii) conduct described in Section 76-2-401; or
    - (iii) the use of reasonable and necessary physical restraint or force on a child:
      - (A) in self-defense;
      - (B) in defense of others;
      - (C) to protect the child; or
      - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(c)(iii)(A) through (C).

Amended by Chapter 181, 2022 General Session  
Amended by Chapter 335, 2022 General Session

#### **76-5-109.2 Aggravated child abuse.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means the same as that term is defined in Section 76-5-109.
    - (ii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated child abuse if the actor:
  - (a) inflicts upon a child serious physical injury; or
  - (b) having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child.
- (3)
  - (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly.
  - (b) A violation of Subsection (2) is a third degree felony if done recklessly.
  - (c) A violation of Subsection (2) is a class A misdemeanor if done with criminal negligence.
- (4)
  - (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.
  - (b) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.
  - (c) An actor is not guilty of an offense under this section for conduct that constitutes:
    - (i) conduct described in Section 76-2-401; or

- (ii) the use of reasonable and necessary physical restraint or force on a child:
  - (A) in self-defense;
  - (B) in defense of others;
  - (C) to protect the child; or
  - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(c)(ii)(A) through (C).

Enacted by Chapter 181, 2022 General Session

**76-5-109.3 Child abandonment.**

- (1)
    - (a) As used in this section:
      - (i) "Child" means the same as that term is defined in Section 76-5-109.
      - (ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.
      - (iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.
    - (b) Terms defined in Section 76-1-101.5 apply to this section.
  - (2)
    - (a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:
      - (i) is a parent or legal guardian of a child, and:
        - (A) intentionally ceases to maintain physical custody of the child;
        - (B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and
      - (C)
        - (I) intentionally fails to provide the child with food, shelter, or clothing;
        - (II) manifests an intent to permanently not resume physical custody of the child; or
        - (III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or
    - (ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).
  - (b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, or causes another to violate Subsection (2)(a).
- (3)
  - (a)
    - (i) A violation of Subsection (2) is a third degree felony.
    - (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:
      - (A) the child suffers a serious physical injury; or
      - (B) the actor or enterprise receives, directly or indirectly, any benefit.
  - (b)
    - (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (3)(b)(ii).
    - (ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture of Seized Property.
- (4)
  - (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a

member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

- (b) An actor is not guilty of an offense under this section for conduct that constitutes:
  - (i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;
  - (ii) giving legal consent to a court order for termination of parental rights:
    - (A) in a legal adoption proceeding; or
    - (B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;
  - (iii) reasonable discipline or management of a child, including withholding privileges; or
  - (iv) conduct described in Section 76-2-401.

Amended by Chapter 448, 2023 General Session

**76-5-110 Abuse or neglect of a child with a disability.**

- (1)
  - (a) As used in this section:
    - (i) "Abuse" means:
      - (A) inflicting physical injury;
      - (B) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury; or
      - (C) unreasonable confinement.
    - (ii) "Caretaker" means:
      - (A) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or
      - (B) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.
    - (iii) "Child with a disability" means an individual under 18 years old who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the individual is unable to care for the individual's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.
    - (iv) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.
    - (v) "Physical injury" means the same as that term is defined in Section 76-5-109.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits abuse or neglect of a child with a disability if the actor is a caretaker and intentionally, knowingly, or recklessly abuses or neglects a child with a disability.
- (3) A violation of Subsection (2) is a third degree felony.
- (4)
  - (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to be in violation under this section.
  - (b) Subject to Section 80-3-109, the exception under Subsection (4)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

- (c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

Amended by Chapter 181, 2022 General Session

**76-5-111 Abuse of a vulnerable adult -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Abandonment" means a knowing or intentional action or inaction, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.
    - (ii) "Abuse" means:
      - (A) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;
      - (B) causing physical injury by knowing or intentional acts or omissions;
      - (C) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the vulnerable adult; or
      - (D) deprivation of life-sustaining treatment, except:
        - (I) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or
        - (II) when informed consent, as defined in this section, has been obtained.
    - (iii) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, or other necessities for pecuniary gain, by contract, or as a result of friendship, or in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.
    - (iv)
      - (A) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.
      - (B) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.
    - (v) "Elder adult" means an individual 65 years old or older.
    - (vi) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.
    - (vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.
    - (viii) "Informed consent" means:
      - (A) a written expression by the individual or authorized by the individual, stating that the individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the individual desires that the services be withdrawn, except that a written expression is valid only if the individual is

of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or

(B) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

(ix)

(A) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(I) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(II) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(III) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(B) "Isolation" does not include an act:

(I) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(II) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(x) "Neglect" means:

(A) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;

(B) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(C) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(D) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or

(E) abandonment by a caretaker.

(xi)

(A) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition.

(B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.

(xii) "Position of trust and confidence" means the position of a person who:

(A) is a parent, spouse, adult child, or other relative of a vulnerable adult;

(B) is a joint tenant or tenant in common with a vulnerable adult;

- (C) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or
- (D) is a caretaker of a vulnerable adult.
- (xiii) "Serious physical injury" means any physical injury or set of physical injuries that:
  - (A) seriously impairs a vulnerable adult's health;
  - (B) was caused by use of a dangerous weapon;
  - (C) involves physical torture or causes serious emotional harm to a vulnerable adult; or
  - (D) creates a reasonable risk of death.
- (xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that individual's ability to:
  - (A) provide personal protection;
  - (B) provide necessities such as food, shelter, clothing, or medical or other health care;
  - (C) obtain services necessary for health, safety, or welfare;
  - (D) carry out the activities of daily living;
  - (E) manage the adult's own resources; or
  - (F) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor, under circumstances other than those likely to produce death or serious physical injury:
  - (a) causes a vulnerable adult to suffer harm, abuse, or neglect;
  - (b) having the care or custody of a vulnerable adult, causes or permits that vulnerable adult's person or health to be injured, abused, or neglected; or
  - (c) causes or permits a vulnerable adult to be placed in a situation in which the vulnerable adult's person or health is endangered.
- (3)
  - (a) A violation of Subsection (2):
    - (i) is a class A misdemeanor if done intentionally or knowingly;
    - (ii) is a class B misdemeanor if done recklessly; or
    - (iii) is a class C misdemeanor if done with criminal negligence.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) that is based on isolation of a vulnerable adult is a third degree felony.
- (4)
  - (a) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.
  - (b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.
- (5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (3), the court may require that the actor:
  - (a) undergo appropriate counseling as a condition of the sentence; and
  - (b) pay for the costs of the ordered counseling.

Amended by Chapter 181, 2022 General Session

**76-5-111.2 Aggravated abuse of a vulnerable adult -- Penalties.**

(1)

- (a) As used in this section, "abuse," "caretaker," "isolation," "neglect," "serious physical injury," and "vulnerable adult" all mean the same as those terms are defined in Section 76-5-111.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor, including a caretaker, commits aggravated abuse of a vulnerable adult if the actor, under a circumstance likely to produce death or serious physical injury:
  - (a) causes a vulnerable adult to suffer serious physical injury;
  - (b) having the care or custody of a vulnerable adult, causes or permits the vulnerable adult's person or health to be injured; or
  - (c) causes or permits a vulnerable adult to be placed in a situation in which the vulnerable adult's person or health is endangered.
- (3)
  - (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly.
  - (b) A violation of Subsection (2) is a third degree felony if done recklessly.
  - (c) A violation of Subsection (2) is a class A misdemeanor if done with criminal negligence.
- (4)
  - (a) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.
  - (b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.
- (5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (3), the court may require that the actor:
  - (a) undergo appropriate counseling as a condition of the sentence; and
  - (b) pay for the costs of the ordered counseling.

Enacted by Chapter 181, 2022 General Session

**76-5-111.3 Personal dignity exploitation of a vulnerable adult -- Penalties.**

- (1)
  - (a) As used in this section, "abuse," "caretaker," "exploitation," "neglect," and "vulnerable adult" all mean the same as those terms are defined in Section 76-5-111.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) Except as provided in Subsection (4), an actor commits personal dignity exploitation of a vulnerable adult if the actor is a caretaker of a vulnerable adult and intentionally, knowingly, or recklessly:
  - (a) creates, transmits, or displays a photographic or electronic image or recording of the vulnerable adult:
    - (i) to which creation, transmission, or display a reasonable person would not consent; and
    - (ii)
      - (A) that shows the vulnerable adult's unclothed breasts, buttocks, anus, genitals, or pubic area;
      - (B) that displays the clothed area of only the vulnerable adult's breasts, buttocks, anus, genitals, or pubic area; or
      - (C) that shows the vulnerable adult engaged in conduct that is harmful to the mental or physical health or safety of the vulnerable adult; or
  - (b) causes the vulnerable adult to participate in an act that is highly offensive or demeaning to the vulnerable adult:
    - (i) in which a reasonable person would not participate; or

- (ii) that is harmful to the mental or physical health or safety of the vulnerable adult.
- (3)
  - (a)
    - (i) A violation of Subsection (2) is a class A misdemeanor if done intentionally or knowingly.
    - (ii) A violation of Subsection (2) is a class B misdemeanor if done recklessly.
  - (b)
    - (i) It is a separate offense under Subsection (2)(a) for each vulnerable adult included in a photographic or electronic image or recording created, transmitted, or displayed in violation of Subsection (2)(a).
    - (ii) It is a separate offense under Subsection (2)(b) for each vulnerable adult caused to participate in an act in violation of Subsection (2)(b).
- (4)
  - (a) A caretaker does not violate Subsection (2)(a) if the caretaker creates, transmits, or displays the photographic or electronic image or recording:
    - (i) with the consent of the vulnerable adult, if the vulnerable adult:
      - (A) is mentally and physically able to give voluntary consent to the creation, transmission, or display; and
      - (B) gives voluntary consent for the creation, transmission, or display;
    - (ii) for a legitimate purpose relating to monitoring or providing care, treatment, or diagnosis; or
    - (iii) for a legitimate purpose relating to investigating abuse, neglect, or exploitation.
  - (b) A caretaker does not violate Subsection (2)(b) if:
    - (i) the vulnerable adult:
      - (A) is mentally and physically able to give voluntary consent to participate in the act; and
      - (B) gives voluntary consent to participate in the act; or
    - (ii) the caretaker causes the vulnerable adult to participate in the act for a legitimate purpose relating to:
      - (A) monitoring or providing care, treatment, or diagnosis; or
      - (B) investigating abuse, neglect, or exploitation.
- (5)
  - (a) It is not a defense that the vulnerable adult was unaware of:
    - (i) the creation, transmission, or display prohibited under Subsection (2)(a); or
    - (ii) participation in the act, or the nature of participation in the act, under Subsection (2)(b).
  - (b) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

Enacted by Chapter 181, 2022 General Session

**76-5-111.4 Financial exploitation of a vulnerable adult -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Abuse" means the same as that term is defined in Section 76-5-111.
    - (ii) "Business relationship" means a relationship between two or more individuals or entities where there exists an oral or written agreement for the exchange of goods or services.
    - (iii) "Deception" means:
      - (A) a misrepresentation or concealment:
        - (I) of a material fact relating to services rendered, disposition of property, or use of property intended to benefit a vulnerable adult;
        - (II) of the terms of a contract or agreement entered into with a vulnerable adult; or



- (III) relating to the existing or preexisting condition of any property involved in a contract or agreement entered into with a vulnerable adult; or
- (B) the use or employment of any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.
- (iv) "Endeavor" means to attempt or try.
- (v) "Intimidation" means communication conveyed through verbal or nonverbal conduct that threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or that threatens isolation or harm.
- (vi) "Isolation" means the same as that term is defined in Section 76-5-111.
- (vii) "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the vulnerable adult's person or property.
- (viii) "Neglect" means the same as that term is defined in Section 76-5-111.
- (ix) "Undue influence" occurs when a person:
  - (A) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or
  - (B) uses the person's role, relationship, or power:
    - (I) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or
    - (II) to gain control deceptively over the decision making of the vulnerable adult.
- (x) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits the offense of financial exploitation of a vulnerable adult if the actor:
  - (a) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the vulnerable adult's property, for the benefit of someone other than the vulnerable adult;
  - (b) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the vulnerable adult's property for the benefit of someone other than the vulnerable adult;
  - (c) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;
  - (d) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult; or
  - (e) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity.
- (3)
  - (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly and the aggregate value of the resources used or the profit made is or exceeds \$5,000.
  - (b) A violation of Subsection (2) is a third degree felony if done intentionally or knowingly and the aggregate value of the resources used or the profit made is less than \$5,000 or cannot be determined.
  - (c) A violation of Subsection (2) is a class A misdemeanor if done recklessly.

- (d) A violation of Subsection (2) is a class B misdemeanor if done with criminal negligence.
- (4) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

Enacted by Chapter 181, 2022 General Session

**76-5-112 Reckless endangerment -- Penalty.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits reckless endangerment if, under circumstances not amounting to a felony offense, the actor recklessly engages in conduct that creates a substantial risk of death or serious bodily injury to another individual.
- (3) A violation of Subsection (2) is a class A misdemeanor.

Amended by Chapter 181, 2022 General Session

**76-5-112.5 Endangerment of a child or vulnerable adult.**

- (1)
  - (a) As used in this section:
    - (i)
      - (A) "Chemical substance" means:
        - (I) a substance intended to be used as a precursor in the manufacture of a controlled substance;
        - (II) a substance intended to be used in the manufacture of a controlled substance; or
        - (III) any fumes or by-product resulting from the manufacture of a controlled substance.
      - (B) Intent under this Subsection (1)(a)(i) may be demonstrated by:
        - (I) the use, quantity, or manner of storage of the substance; or
        - (II) the proximity of the substance to other precursors or to manufacturing equipment.
    - (ii) "Child" means an individual who is under 18 years old.
    - (iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.
    - (iv) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.
    - (v) "Exposed to" means that the child or vulnerable adult:
      - (A) is able to access an unlawfully possessed:
        - (I) controlled substance; or
        - (II) chemical substance;
      - (B) has the reasonable capacity to access drug paraphernalia; or
      - (C) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.
    - (vi) "Prescription" means the same as that term is defined in Section 58-37-2.
    - (vii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits endangerment of a child or vulnerable adult if the actor knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia.
- (3)
  - (a) A violation of Subsection (2) is a third degree felony.
  - (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:
    - (i) the actor engages in the conduct described in Subsection (2); and

- (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury.
- (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if:
  - (i) the actor engages in the conduct described in Subsection (2); and
  - (ii) as a result of the conduct described in Subsection (2), the child or the vulnerable adult dies.
- (4)
  - (a) Notwithstanding Subsection (3), a child may not be subjected to delinquency proceedings for a violation of Subsection (2) unless:
    - (i) the child is 15 years old or older; and
    - (ii) the other child who is exposed to or inhales, ingests, or has contact with the controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.
  - (b) It is an affirmative defense to a violation of this section that the controlled substance:
    - (i) was obtained by lawful prescription or in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
    - (ii) is used or possessed by the individual to whom the controlled substance was lawfully prescribed or recommended to under Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.
- (5) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.
- (6) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law, this section does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 330, 2023 General Session

**76-5-113 Surreptitious administration of certain substances -- Definitions -- Penalties -- Defenses.**

- (1)
  - (a) As used in this section:
    - (i) "Administer" means the introduction of a substance into the body by injection, inhalation, ingestion, or by any other means.
    - (ii) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.
    - (iii) "Controlled substance" means the same as that term is defined in Section 58-37-2.
    - (iv) "Deleterious substance" means a substance which, if administered, would likely cause bodily injury.
    - (v) "Health care provider" means the same as that term is defined in Section 78B-3-403.
    - (vi) "Poisonous" means a substance which, if administered, would likely cause serious bodily injury or death.
    - (vii) "Prescription drug" means the same as that term is defined in Section 58-17b-102.
    - (viii) "Serious bodily injury" means the same as that term is defined in Section 19-2-115.
    - (ix) "Substance" means a controlled substance, poisonous substance, or deleterious substance.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits surreptitious administration of a certain substance if the actor, surreptitiously or by means of fraud, deception, or misrepresentation, causes an individual to unknowingly consume or receive the administration of:
  - (a) any poisonous, deleterious, or controlled substance; or

- (b) any alcoholic beverage.
- (3) A violation of Subsection (2) is:
  - (a) a second degree felony if the substance is a poisonous substance, regardless of whether the substance is a controlled substance or a prescription drug;
  - (b) a third degree felony if the substance is not within the scope of Subsection (3)(a), and is a controlled substance or a prescription drug; or
  - (c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic beverage.
- (4)
  - (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:
    - (i) provided the appropriate administration of a prescription drug; and
    - (ii) acted on the reasonable belief that the actor's conduct was in the best interest of the well-being of the individual to whom the prescription drug was administered.
  - (b)
    - (i) The defendant shall file and serve on the prosecuting attorney a notice in writing of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the trial.
    - (ii) The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses the defendant proposes to examine to establish the defense.
  - (c)
    - (i) The prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses the prosecutor proposes to examine in order to contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).
    - (ii) This notice shall be filed or served not more than 10 days after receipt of the defendant's notice under Subsection (4)(b), or at another time as the court may direct.
  - (d)
    - (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c) entitles the opposing party to a continuance to allow for preparation.
    - (ii) If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.
- (5)
  - (a) This section does not diminish the scope of authorized health care by a health care provider.
  - (b) Conduct in violation of Subsection (2) may also constitute a separate offense.

Amended by Chapter 330, 2023 General Session

**76-5-114 Commission of domestic violence in the presence of a child.**

- (1)
  - (a) As used in this section:
    - (i) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
    - (ii) "Criminal homicide offense" means an offense listed in Subsection 76-5-201(2).
    - (iii) "Domestic violence" means the same as that term is defined in Section 77-36-1.
    - (iv) "In the presence of a child" means:
      - (A) in the physical presence of a child; or
      - (B) having knowledge that a child is present and may see or hear an act of domestic violence.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits domestic violence in the presence of a child if the actor:
  - (a) commits or attempts to commit a criminal homicide offense against a cohabitant in the presence of a child;

- (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; or
  - (c) under circumstances not amounting to a violation of Subsection (2)(a) or (b), commits an act of domestic violence in the presence of a child.
- (3)
- (a) A violation of Subsection (2)(a) or (b) is a third degree felony.
  - (b) A violation of Subsection (2)(c) is a class B misdemeanor.
- (4)
- (a) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence in which the victim is the cohabitant.
  - (b) Either or both charges may be filed by the prosecutor.
- (5) An actor who commits a violation of this section when more than one child is present is guilty of one offense of domestic violence in the presence of a child regarding each child present when the violation occurred.

Renumbered and Amended by Chapter 181, 2022 General Session