

**Effective 5/4/2022**

## **Chapter 5 Offenses Against the Individual**

### **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 and Youth Services regardless of whether the confinement is legal.

Amended by Chapter 240, 2024 General Session

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

- (1)
  - (a) As used in this section, "chokehold" means a restraining hold in which one individual encircles the neck of another individual in a viselike grip using an arm.
  - (b) 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) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
  - (b) 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.
- (5) This section does not apply to an actor's use of a chokehold on another individual if:
  - (a) the chokehold is done as part of training for, or participating in, a practice or sport in which a chokehold is a known and acceptable practice, including martial arts, wrestling, or mixed martial arts; and
  - (b) the other individual is also training for, or participating in, the same practice or sport in which a chokehold is a known and acceptable practice.

Amended by Chapter 251, 2026 General Session

**Superseded 7/1/2026**

#### **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 58-37-101.
  - (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;
    - (ii) a third degree felony if the actor has two or more driving under the influence related convictions under Subsection 41-6a-501(2)(a), each of which is within 10 years of:
      - (A) the current conviction; or
      - (B) the commission of the offense upon which the current conviction is based;
    - (iii) a third degree felony, if the current conviction is at any time after the conviction of:
      - (A) a conviction, as the term conviction is defined in Subsection 41-6a-501(2), that is a felony; or
      - (B) any conviction described in Subsection (3)(a)(iii)(A) for which judgment of conviction is reduced under Section 76-3-402; or
    - (iv) 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 58-37-109 if:
    - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; 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 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

- (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.
- (6)
- (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.
  - (b) If a court designates a person as an interdicted person as provided in Subsection (6)(a), the court shall:
    - (i) require the person to surrender the person's Utah identification card or Utah driver license;
    - (ii) notify the Driver License Division that the person is an interdicted person; and
    - (iii) provide the person's identification card or driver license to the Driver License Division.
- (7) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:
- (a) a screening as defined in Section 41-6a-501;
  - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a) indicates that an assessment is appropriate; and
  - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

Amended by Chapter 362, 2026 General Session

**Effective 7/1/2026**

**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 58-37-101.
    - (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;
    - (ii) a third degree felony if the actor has two or more driving under the influence related convictions under Subsection 41-6a-501(2)(a), each of which is within 10 years of:
      - (A) the current conviction; or
      - (B) the commission of the offense upon which the current conviction is based;
    - (iii) a third degree felony, if the current conviction is at any time after the conviction of:
      - (A) a conviction, as the term conviction is defined in Subsection 41-6a-501(2), that is a felony; or
      - (B) any conviction described in Subsection (3)(a)(iii)(A) for which judgment of conviction is reduced under Section 76-3-402; or
    - (iv) 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 58-37-109 if:
    - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; 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 adult sentencing and supervision length guidelines, as defined in Section 75E-4-101;
    - (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.
- (6)
- (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.
  - (b) If a court designates a person as an interdicted person as described in Subsection (6)(a), the court shall:
    - (i) require the person to surrender the person's Utah identification card or Utah driver license;
    - (ii) notify the Driver License Division that the person is an interdicted person; and
    - (iii) provide the person's identification card or driver license to the Driver License Division.
- (7) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:
- (a) a screening as defined in Section 41-6a-501;
  - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (7)(a) indicates that an assessment is appropriate; and
  - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (7)(b).

Amended by Chapter 291, 2026 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 or threat of violence against a peace officer or a family member of a peace officer.**

- (1)
  - (a) As used in this section:
    - (i) "Assault" means an offense under Section 76-5-102.
    - (ii) "Family member" means an individual's spouse, surviving spouse, parent, grandparent, sibling, child, or any other individual related to the individual by consanguinity or affinity to the second degree.
    - (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) An actor commits assault or threat of violence against a peace officer or a family member of a peace officer if:
  - (a) the actor commits an assault or threat of violence against a peace officer or a family member of a peace officer;
  - (b) the actor knows that the individual described in Subsection (2)(a) is a peace officer or a family member of a peace officer; and
  - (c) the assault or threat of violence described in Subsection (2)(a) is intentionally committed:
    - (i) against a peace officer at the time the officer is acting within the scope of the peace officer's authority as a peace officer;
    - (ii) against a peace officer because of the peace officer's status as a peace officer; or
    - (iii) against a family member of a peace officer because of the peace officer's status as a peace officer.
- (3)
  - (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class A misdemeanor.
  - (b) Except as provided in Subsection (3)(c), 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:
      - (A) this section; or
      - (B) assault or threat of violence against a military service member as described in Section 76-5-102.10; or
    - (ii) causes substantial bodily injury.
  - (c) 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 state law, 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 246, 2026 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

**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 76-11-101.
  - (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 173, 2025 General Session

Amended by Chapter 208, 2025 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

**76-5-102.10 Assault or threat of violence against a military service member or a family member of a military service member.**

- (1)
  - (a) As used in this section:
    - (i) "Assault" means an offense under Section 76-5-102.
    - (ii) "Military service member" means:
      - (A) a member of any branch of the United States armed forces; or
      - (B) a member of the National Guard or State Defense Force.
    - (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 military service member if:
  - (a) the actor commits an assault or threat of violence against a military service member or a family member of a military service member;
  - (b) the actor knows that the individual described in Subsection (2)(a) is a military service member or a family member of a military service member; and
  - (c) the assault or threat of violence described in Subsection (2)(a) is intentionally committed:
    - (i) against a military service member at the time the military service member is acting within the scope of the military service member's authority as a military service member;
    - (ii) against a military service member because of the military service member's status as a military service member; or
    - (iii) against a family member of a military service member because of the military service member's status as a military service member.
- (3)
  - (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class A misdemeanor.
  - (b) Except as provided in Subsection (3)(c), 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:
      - (A) this section; or
      - (B) assault or threat of violence against a peace officer as described in Section 76-5-102.4; or
    - (ii) causes substantial bodily injury.
  - (c) 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 state law, 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.

Enacted by Chapter 246, 2026 General Session

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

- (1)
  - (a) As used in this section:
    - (i) "Chokehold" means the same as that term is defined in Section 76-5-102.
    - (ii) "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:
  - (a)
    - (i) the actor attempts, with unlawful force or violence, to do bodily injury to another;

- (ii) the actor makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or
- (iii) the actor 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) the actor's conduct described in Subsection (2)(a) includes:
  - (i) the use of:
    - (A) a dangerous weapon; or
    - (B) a motor vehicle;
  - (ii) any act that intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence 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) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony.
  - (b) Except as provided in Subsection (3)(c), 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) 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.
- (4) This section does not apply to an actor's use of a chokehold on another individual if:
  - (a) the chokehold is done as part of training for, or participating in, a practice or sport in which a chokehold is a known and acceptable practice, including martial arts, wrestling, or mixed martial arts; and
  - (b) the other individual is also training for, or participating in, the same practice or sport in which a chokehold is a known and acceptable practice.

Amended by Chapter 251, 2026 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 76-9-112.

- (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 173, 2025 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

***Superseded 9/1/2026***

**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 76-12-305.

(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 is reckless as to whether 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:
    - (i) the actor is acting:
      - (A) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and
      - (B) for a legitimate official or business purpose; or
    - (ii)
      - (A) the actor is the owner of a business;
      - (B) the actor engages in a course of conduct that is reasonable and necessary to protect the actor's ownership interest in the business;
      - (C) the conduct is not directed at a cohabitant, as that term is defined in Section 78B-7-102; and
      - (D) the actor's conduct does not violate any other provision of this code.
  - (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 173, 2025 General Session

Amended by Chapter 238, 2025 General Session

***Effective 9/1/2026***

**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 76-12-305.
  - (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 is reckless as to whether 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:
    - (i) the actor is acting:
      - (A) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and
      - (B) for a legitimate official or business purpose; or
    - (ii)
      - (A) the actor is the owner of a business;
      - (B) the actor engages in a course of conduct that is reasonable and necessary to protect the actor's ownership interest in the business;
      - (C) the conduct is not directed at a cohabitant, as that term is defined in Section 78B-7-102; and
      - (D) the actor's conduct does not violate any other provision of this code.
  - (b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for the denial of a license under Section 58-92-401.
- (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 44, 2026 General Session

***Superseded 1/1/2027***

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

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits a threat of violence if the actor:
  - (a)
    - (i) threatens to commit an offense:
      - (A) under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or
      - (B) involving bodily injury, death, or substantial property damage; and
    - (ii) acts with intent to place an individual in fear:
      - (A) that the actor will imminently commit an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, against the individual; or
      - (B) of imminent serious bodily injury, substantial bodily injury, or death; or
  - (b) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to an individual.
- (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.
- (4) It is not a defense under this section that the actor did not attempt to or was incapable of carrying out the threat.
- (5) A threat under Subsection (2) may be express or implied.

Amended by Chapter 173, 2025 General Session

**Effective 1/1/2027**

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

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits a threat of violence if the actor:
  - (a)
    - (i) threatens to commit an offense:
      - (A) under Title 76, Chapter 5, Part 4, Sexual Offenses; or
      - (B) involving bodily injury, death, or substantial property damage; and
    - (ii) acts with intent to place an individual in fear:
      - (A) that the actor will imminently commit an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against the individual; or
      - (B) of imminent serious bodily injury, substantial bodily injury, or death; or
  - (b) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to an individual.
- (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.
- (4) It is not a defense under this section that the actor did not attempt to or was incapable of carrying out the threat.
- (5) A threat under Subsection (2) may be express or implied.

Amended by Chapter 445, 2026 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 76-15-301.
    - (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, with real intent or as an intentional hoax, to commit an 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 third degree felony.
    - (ii) A violation of Subsection (2)(b)(ii) is a class A misdemeanor.
    - (iii) A violation of Subsection (2)(c) is a class B misdemeanor.

(b)

- (i) In addition to another penalty authorized by law, a court shall order an actor convicted under this section to pay restitution to a federal, state, or local unit of government, or a 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 the threat or was incapable of carrying out the threat.
- (5) A violation of this section shall be reported to the local law enforcement agency.
- (6) Counseling for a minor alleged to have violated this section and the minor's family may be made available through state and local health department programs.

Amended by Chapter 173, 2025 General Session

### **76-5-107.3 Terrorism.**

(1)

(a) As used in this section:

- (i) "Hoax weapon of mass destruction" means the same as that term is defined in Section 76-15-301.
- (ii) "Weapon of mass destruction" means the same as that term is defined in Section 76-15-301.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits terrorism if the actor commits, or threatens to commit, an offense involving bodily injury, death, or substantial property damage and the actor:

(a)

- (i) threatens the use of a weapon of mass destruction; or
- (ii) threatens the use of a hoax weapon of mass destruction; or

(b) acts with intent to:

- (i) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;
- (ii) 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
- (iii) 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.

(3)

(a) A violation of Subsection (2)(a) or (2)(b)(i) is a second degree felony.

(b) A violation of Subsection (2)(b)(ii) is a third degree felony.

(c) A violation of Subsection (2)(b)(iii) is a class B misdemeanor.

(4)

(a) 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 any threatened offense.

(b) 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.

- (5) 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.
- (6) A threat under this section may be express or implied.

Amended by Chapter 368, 2026 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) "Injury" means a physical or psychological injury to or condition of a child which impairs the physical or psychological 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 that imperils the child's physical or psychological health or welfare and that is not a serious injury.
    - (iii) "Psychological injury" means an identifiable mental or emotional harm, damage, impairment, or dysfunction.
  - (iv)

(A) "Serious injury" means an injury or set of injuries that:

- (I) seriously impairs the child's health, which includes the child's physical or mental well-being or development;
- (II) causes serious emotional harm to the child; or
- (III) involves a substantial risk of death to the child.

(B) "Serious 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 injuries inflicted by the same individual, 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 involving unreasonable forcible restriction of a child's movements, including restraining or confining the child with restraints or in an enclosed space or forcing the child to remain in a stress position;
- (XI) any conduct involving forcing or coercing a child to injure the child's self, an individual known to the child, or an animal known to the child;
- (XII) any conduct involving a threat to harm or kill the child, an individual known to the child, or an animal known to the child;
- (XIII) any conduct involving unreasonably subjecting a child to excessive heat, cold, darkness, solitary confinement, or sleep deprivation;
- (XIV) any conduct that results in starvation, dehydration, failure to thrive, or malnutrition, that jeopardizes the child's life or seriously injures the child's physical or mental well-being or development; or
- (XV) 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 an injury; or
- (b) having the care or custody of a child, causes or permits another to inflict an injury upon the 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 284, 2025 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 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) Under circumstances not amounting to a violation of Section 76-5-109.4, Child torture, an actor commits aggravated child abuse if the actor:
  - (a) inflicts upon a child a serious injury; or
  - (b) having the care or custody of a child, causes or permits another to inflict a serious injury upon the child.
- (3)
  - (a) A violation of Subsection (2) is a first 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).

Amended by Chapter 193, 2025 General Session  
Amended by Chapter 284, 2025 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 76-17-401.
    - (iii) "Serious 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, induces by misrepresentation, 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 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.
- (c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed child abandonment due to:
  - (i) intimidation;
  - (ii) isolation;
  - (iii) harassment;
  - (iv) coercion;
  - (v) the actor's reasonable fear of bodily harm; or
  - (vi) the reasonable actions of the actor to protect the safety and welfare of the actor or another individual.

Amended by Chapter 173, 2025 General Session  
Amended by Chapter 284, 2025 General Session

#### **76-5-109.4 Child torture.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means the same as that term is defined in Section 76-5-109.
    - (ii) "Course of conduct" means a pattern of conduct composed of two or more acts that evidence a continuity of purpose.
    - (iii) "Serious 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 child torture if the actor intentionally or knowingly inflicts upon a child, or having the care or custody of a child, intentionally or knowingly causes or permits another to inflict upon the child:
  - (a) a serious injury that is inflicted in an exceptionally cruel or exceptionally depraved manner that causes the child to experience extreme physical or psychological pain or anguish; or
  - (b) a serious injury, or more than one serious injury, as part of a course of conduct or over a prolonged period of time.
- (3)
  - (a) Except as provided under Subsection (3)(b), a violation of Subsection (2) is a first degree felony subject to a sentence of imprisonment of at least 10 years and which may be for life.
  - (b) If, when imposing a sentence of imprisonment, a court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
    - (i) seven years and which may be for life; or
    - (ii) four years and which may be for life.
- (4) Imprisonment under Subsection (3) is mandatory in accordance with Section 76-3-406.

- (5) An actor's conduct is not subject to punishment under Subsection (2)(b) if the serious injury that forms the basis for the offense is based solely on the commission of two or more injuries by the same individual as described under Subsection 76-5-109(1)(a)(iii)(B)(V).

Enacted by Chapter 284, 2025 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 injury;
      - (B) having the care or custody of a child with a disability, causing or permitting another to inflict 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) "Injury" means the same as that term is defined in Section 76-5-109.
    - (v) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.
  - (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 284, 2025 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 or physician assistant'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 75A, Chapter 3, Health Care Decisions; 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, physician assistant, 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 364, 2024 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 58-37-101.
    - (iv) "Drug paraphernalia" means the same as that term is defined in Section 76-18-301.
    - (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 58-37-101.
    - (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 362, 2026 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 58-37-101.
    - (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 362, 2026 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;
  - (c) intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence by applying pressure to the neck

or throat of an individual or obstructing the nose, mouth, or airway of an individual, in the presence of a child; or

(d) under circumstances not amounting to a violation of Subsection (2)(a), (2)(b), or (2)(c), commits an act of domestic violence in the presence of a child.

(3)

(a) A violation of Subsection (2)(a), (2)(b), or (2)(c) is a third degree felony.

(b) A violation of Subsection (2)(d) 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.

Amended by Chapter 243, 2025 General Session

**76-5-115 Leaving a child unattended in a motor vehicle.**

(1)

(a) As used in this section:

(i) "Child" means an individual who is younger than nine years old.

(ii) "Enclosed compartment" means any enclosed area of a motor vehicle, including the passenger compartment, regardless of whether a door, window, or hatch is left open.

(iii) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other self-propelled vehicle.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits leaving a child unattended in a motor vehicle if:

(a) the actor intentionally, knowingly, recklessly, or with criminal negligence leaves a child in an enclosed compartment of a motor vehicle;

(b) the motor vehicle is on:

(i) public property; or

(ii) private property that is open to the general public;

(c) the child is not supervised by an individual who is at least nine years old; and

(d) the conditions present a risk to the child of:

(i) hyperthermia;

(ii) hypothermia; or

(iii) dehydration.

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

(4) This section does not apply if the actor's conduct that constitutes a violation of this section is subject to a greater penalty under another provision of state law.

(5) This section preempts enforcement of a local law or ordinance that makes it an infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under this section.

(6) Notwithstanding any provision of state law to the contrary, a conviction under this section may not be used by a state or local government entity as grounds for revoking, refusing to grant, or refusing to renew, a license or permit, including a license or permit relating to the provision of day care or child care.

Renumbered and Amended by Chapter 173, 2025 General Session

## Part 2 Criminal Homicide

### **76-5-201 Criminal homicide -- Designations of offenses -- Exceptions -- Application of consensual altercation defense.**

- (1)
  - (a) As used in this section:
    - (i) "Abortion" means the same as that term is defined in Section 76-7-301.
    - (ii) "Criminal homicide" means an act causing the death of another human being, including an unborn child at any stage of the unborn child's development.
  - (b) The terms defined in Section 76-1-101.5 apply to this section.
- (2) The following are criminal homicide:
  - (a) aggravated murder;
  - (b) murder;
  - (c) manslaughter;
  - (d) child abuse homicide;
  - (e) homicide by assault;
  - (f) negligent homicide; and
  - (g) automobile homicide.
- (3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide if:
  - (a) the death of an unborn child is caused by an abortion;
  - (b) the sole reason for the death of an unborn child is that the actor:
    - (i) refused to consent to:
      - (A) medical treatment; or
      - (B) a cesarean section; or
    - (ii) failed to follow medical advice; or
  - (c) a woman causes the death of her own unborn child, and the death:
    - (i) is caused by a criminally negligent act or reckless act of the woman; and
    - (ii) is not caused by an intentional or knowing act of the woman.
- (4) The provisions governing a defense of a consensual altercation as described in Section 76-5-104 apply to this part.

Amended by Chapter 153, 2024 General Session

### **76-5-202 Aggravated murder -- Penalties -- Affirmative defense and special mitigation -- Separate offense.**

- (1)
  - (a) As used in this section:
    - (i) "Correctional officer" means the same as that term is defined in Section 53-13-104.
    - (ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.
    - (iii) "Federal officer" means the same as that term is defined in Section 53-13-106.
    - (iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
    - (v) "Peace officer" means:
      - (A) a correctional officer, federal officer, law enforcement officer, or special function officer; or

- (B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.
- (vi) "Special function officer" means the same as that term is defined in Section 53-13-105.
- (vii) "Target a law enforcement officer" means an act:
  - (A) involving the unlawful use of force and violence against a law enforcement officer;
  - (B) that causes serious bodily injury or death; and
  - (C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.
- (viii) "Weapon of mass destruction" means the same as that term is defined in Section 76-15-301.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:
    - (i) the actor committed homicide while confined in a jail or other correctional institution;
    - (ii)
      - (A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more individuals other than the actor were killed; or
      - (B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;
    - (iii) the actor knowingly created a great risk of death to another individual other than the deceased individual and the actor;
    - (iv) the actor committed homicide incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as described in Subsection 76-5-109.2(3)(a), child torture, or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;
    - (v) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as described in Subsection 76-5-802(2)(d);
    - (vi) the actor committed homicide for the purpose of avoiding or preventing an arrest of the actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the actor's or another individual's escape from lawful custody;
    - (vii) the actor committed homicide for pecuniary gain;
    - (viii) the actor committed, engaged, or employed another person to commit the homicide subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;
    - (ix) the actor previously committed or was convicted of:
      - (A) aggravated murder under this section;
      - (B) attempted aggravated murder under this section;
      - (C) murder, under Section 76-5-203;
      - (D) attempted murder, under Section 76-5-203; or
      - (E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(ix);
    - (x) the actor was previously convicted of:

- (A) aggravated assault, under Section 76-5-103;
- (B) mayhem, under Section 76-5-105;
- (C) kidnapping, under Section 76-5-301;
- (D) child kidnapping, under Section 76-5-301.1;
- (E) aggravated kidnapping, under Section 76-5-302;
- (F) rape, under Section 76-5-402;
- (G) rape of a child, under Section 76-5-402.1;
- (H) object rape, under Section 76-5-402.2;
- (I) object rape of a child, under Section 76-5-402.3;
- (J) forcible sodomy, under Section 76-5-403;
- (K) sodomy on a child, under Section 76-5-403.1;
- (L) aggravated sexual abuse of a child, under Section 76-5-404.3;
- (M) aggravated sexual assault, under Section 76-5-405;
- (N) aggravated arson, under Section 76-6-103;
- (O) aggravated burglary, under Section 76-6-203;
- (P) aggravated robbery, under Section 76-6-302;
- (Q) felony discharge of a firearm, under Section 76-11-210; or
- (R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(x);
- (xi) the actor committed homicide for the purpose of:
  - (A) preventing a witness from testifying;
  - (B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;
  - (C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or
  - (D) disrupting or hindering any lawful governmental function or enforcement of laws;
- (xii) the deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;
- (xiii) the deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the deceased individual's position, and the actor knew, or reasonably should have known, that the deceased individual holds or has held the position of:
  - (A) a peace officer;
  - (B) an executive officer, prosecuting officer, jailer, or prison official;
  - (C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder;
  - (D) a judge or other court official, juror, probation officer, or parole officer; or
  - (E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;
- (xiv) the actor committed homicide:
  - (A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;
  - (B) by means of any weapon of mass destruction; or
  - (C) to target a law enforcement officer;

- (xv) the actor committed homicide during the act of unlawfully assuming control of an aircraft, train, or other public conveyance by use of threats or force with intent to:
  - (A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard;
  - (B) direct the route or movement of the public conveyance; or
  - (C) otherwise exert control over the public conveyance;
- (xvi) the actor committed homicide by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;
- (xvii) the deceased individual was held or otherwise detained as a shield, hostage, or for ransom;
- (xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the deceased individual before death;
- (xix) the actor dismembers, mutilates, or disfigures the deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or
- (xx) the deceased individual, at the time of the death of the deceased individual:
  - (A) was younger than 14 years old; and
  - (B) was not an unborn child.
- (b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:
  - (i) aggravated child abuse, punishable as a felony of the second degree under Subsection 76-5-109.2(3)(a);
  - (ii) child torture under Section 76-5-109.4;
  - (iii) child kidnapping under Section 76-5-301.1;
  - (iv) rape of a child under Section 76-5-402.1;
  - (v) object rape of a child under Section 76-5-402.3;
  - (vi) sodomy on a child under Section 76-5-403.1; or
  - (vii) sexual abuse or aggravated sexual abuse of a child under Section 76-5-404.1.
- (3)
  - (a) If a notice of intent to seek the death penalty has been filed, a violation of Subsection (2) is a capital felony.
  - (b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.
  - (c)
    - (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.
    - (ii) The notice shall be served on the defendant or defense counsel and filed with the court.
    - (iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.
  - (d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).
  - (e) If the defendant was younger than 18 years old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

- (f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:
  - (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or
  - (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.
- (4)
  - (a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.
  - (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.
  - (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:
    - (i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or
    - (ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.
- (5)
  - (a) Any aggravating circumstance described in Subsection (2) that constitutes a separate offense does not merge with the crime of aggravated murder.
  - (b) An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Amended by Chapter 173, 2025 General Session

Amended by Chapter 208, 2025 General Session

Amended by Chapter 284, 2025 General Session

**76-5-203 Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.**

- (1)
  - (a) As used in this section, "predicate offense" means:
    - (i) a clandestine drug lab violation under Section 76-18-506;
    - (ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;
    - (iii) child torture under Section 76-5-109.4;
    - (iv) kidnapping under Section 76-5-301;
    - (v) child kidnapping under Section 76-5-301.1;
    - (vi) aggravated kidnapping under Section 76-5-302;

- (vii) rape under Section 76-5-402;
  - (viii) rape of a child under Section 76-5-402.1;
  - (ix) object rape under Section 76-5-402.2;
  - (x) object rape of a child under Section 76-5-402.3;
  - (xi) forcible sodomy under Section 76-5-403;
  - (xii) sodomy upon a child under Section 76-5-403.1;
  - (xiii) forcible sexual abuse under Section 76-5-404;
  - (xiv) sexual abuse of a child under Section 76-5-404.1;
  - (xv) aggravated sexual abuse of a child under Section 76-5-404.3;
  - (xvi) aggravated sexual assault under Section 76-5-405;
  - (xvii) arson under Section 76-6-102;
  - (xviii) aggravated arson under Section 76-6-103;
  - (xix) burglary under Section 76-6-202;
  - (xx) aggravated burglary under Section 76-6-203;
  - (xxi) robbery under Section 76-6-301;
  - (xxii) aggravated robbery under Section 76-6-302;
  - (xxiii) escape under Section 76-8-309;
  - (xxiv) aggravated escape under Section 76-8-309.1; or
  - (xxv) a violation of Section 76-11-209 or 76-11-210 regarding discharge of a firearm or dangerous weapon.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits murder if:
- (a) the actor intentionally or knowingly causes the death of another individual;
  - (b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;
  - (c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to any individual and thereby causes the death of any individual;
  - (d)
    - (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;
    - (ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and
    - (iii) the actor acted with the intent required as an element of the predicate offense;
  - (e) the actor recklessly causes the death of a peace officer or military service member while in the commission or attempted commission of:
    - (i) an assault against a peace officer under Section 76-5-102.4;
    - (ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or
    - (iii) an assault against a military service member under Section 76-5-102.10; or
  - (f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).
- (3)
- (a)
    - (i) A violation of Subsection (2) is a first degree felony.

- (ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.
- (b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:
  - (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or
  - (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c), enter a judgment of conviction for attempted manslaughter.
- (4)
  - (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.
  - (b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.
  - (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:
    - (i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or
    - (ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.
- (5)
  - (a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.
  - (b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Amended by Chapter 356, 2026 General Session

**76-5-204 Death of other than intended victim no defense.**

In any prosecution for criminal homicide, evidence that the actor caused the death of a person other than the intended victim shall not constitute a defense for any purpose to criminal homicide.

Enacted by Chapter 196, 1973 General Session

**76-5-205 Manslaughter.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits manslaughter if the actor:
  - (a) recklessly causes the death of another individual; or
  - (b) commits a homicide which would be murder, but the offense is reduced in accordance with Subsection 76-5-203(4).

(3) A violation of Subsection (2) is a second degree felony.

(4)

- (a) In addition to the penalty described under this section or any other section, an actor who is convicted of violating this section shall have the actor's driver license revoked under Section 53-3-220 if the death of another individual results from driving a motor vehicle.
- (b) The court shall forward the report of the conviction resulting from driving a motor vehicle to the Driver License Division in accordance with Section 53-3-218.

Amended by Chapter 330, 2026 General Session

**76-5-205.5 Special mitigation for mental condition or provocation -- Burden of proof -- Charge reduction.**

(1)

(a) As used in this section:

(i)

(A) "Extreme emotional distress" means an overwhelming reaction of anger, shock, or grief that:

(I) causes the defendant to be incapable of reflection and restraint; and

(II) would cause an objectively reasonable person to be incapable of reflection and restraint.

(B) "Extreme emotional distress" does not include:

(I) a condition resulting from a mental condition; or

(II) distress that is substantially caused by the defendant's own conduct.

(ii) "Mental condition" means the same as that term is defined in Section 76-2-305.

(b) The terms defined in Section 76-1-101.5 apply to this section.

(2) Special mitigation exists when a defendant causes the death of another individual or attempts to cause the death of another individual:

(a)

(i) under circumstances that are not legally justified, but the defendant acts under a delusion attributable to a mental condition;

(ii) the nature of the delusion is such that, if the facts existed as the defendant believed them to be in the delusional state, those facts would provide a legal justification for the defendant's conduct; and

(iii) the defendant's actions, in light of the delusion, are reasonable from the objective viewpoint of a reasonable person; or

(b) except as provided in Subsection (4), under the influence of extreme emotional distress that is predominantly caused by the victim's highly provoking act immediately preceding the defendant's actions.

(3) A defendant who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense may not claim mitigation of the offense under Subsection (2)(a) on the basis of a mental condition if the alcohol or substance causes, triggers, or substantially contributes to the defendant's mental condition.

(4) A defendant may not claim special mitigation under Subsection (2)(b) if:

(a) the time period after the victim's highly provoking act and before the defendant's actions was long enough for an objectively reasonable person to have recovered from the extreme emotional distress;

(b) the defendant responded to the victim's highly provoking act by inflicting serious or substantial bodily injury on the victim over a prolonged period, or by inflicting torture on the victim,

regardless of whether the victim was conscious during the infliction of serious or substantial bodily injury or torture; or

- (c) the victim's highly provoking act, described in Subsection (2)(b), is comprised of words alone.
- (5) If the trier of fact finds that the elements of aggravated murder, attempted aggravated murder, murder, or attempted murder are proven beyond a reasonable doubt, and also finds that the existence of special mitigation under this section is established by a preponderance of the evidence, the court shall enter a judgment of conviction in accordance with Subsection 76-5-202(3)(f)(i), 76-5-202(3)(f)(ii), 76-5-203(3)(b)(i), or 76-5-203(3)(b)(ii), respectively.
- (6) If the issue of special mitigation is submitted to the trier of fact, the trier of fact shall return a special verdict at the same time as the general verdict, indicating whether it finds special mitigation.
- (7)
  - (a) If a jury is the trier of fact, a unanimous vote of the jury is required to find special mitigation under this section.
  - (b) If the jury unanimously finds that the elements of an offense described in Subsection (5) are proven beyond a reasonable doubt, and finds special mitigation by a unanimous vote, the jury shall return a general verdict finding the defendant guilty of the charged crime and a special verdict indicating special mitigation.
  - (c) If the jury unanimously finds that the elements of an offense described in Subsection (5) are proven beyond a reasonable doubt but finds by a unanimous vote that special mitigation is not established, or if the jury is unable to unanimously agree that special mitigation is established, the jury shall convict the defendant of the greater offense for which the prosecution proves all the elements beyond a reasonable doubt.

Amended by Chapter 184, 2023 General Session

**76-5-206 Negligent homicide -- Penalties.**

- (1) Definitions of terms in Section 76-1-101.5 apply to this section.
- (2) An actor commits negligent homicide if the actor, acting with criminal negligence, causes the death of another individual.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4)
  - (a) In addition to the penalty provided under this section or any other section, a defendant who is convicted of violating this section shall have the defendant's driver license revoked under Section 53-3-220 if the death of another individual results from driving a motor vehicle.
  - (b) The court shall forward the report of the conviction to the Driver License Division in accordance with Section 53-3-218.

Amended by Chapter 181, 2022 General Session

***Superseded 7/1/2026***

**76-5-207 Automobile homicide -- Penalties -- Evidence.**

- (1)
  - (a) As used in this section:
    - (i) "Controlled substance" means the same as that term is defined in Section 58-37-101.
    - (ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).
    - (iii) "Drug" means:
      - (A) a controlled substance;

- (B) a drug as defined in Section 58-37-101; or
- (C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.
- (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.
- (v) "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 automobile homicide if the actor:
  - (a)
    - (i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual; 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, any drug, or the combined influence of alcohol and any 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 death to another; and
    - (ii) has in the actor's body any measurable amount of a controlled substance.
- (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:
  - (a) a second degree felony, punishable by a term of imprisonment of not less than five years nor more than 15 years; and
  - (b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.
- (4) An actor is not guilty of a violation of automobile homicide 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 58-37-109 if:
    - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; 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 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;
    - (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 as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by 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 when 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.
- (6) If, when imposing a sentence under this section, the court finds that it is in the interest of justice to suspend the imposition of prison, the court shall detail the finding on the record, including why a suspended prison sentence is in the interest of justice.
- (7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than three years nor more than 15 years if the court details on the record why it is in the interest of justice.
- (8)
  - (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.
  - (b) If a court designates a person as an interdicted person as provided in Subsection (8)(a), the court shall:
    - (i) require the person to surrender the person's Utah identification card or Utah driver license;
    - (ii) notify the Driver License Division that the person is an interdicted person; and
    - (iii) provide the person's identification card or driver license to the Driver License Division.
- (9) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:
  - (a) a screening as defined in Section 41-6a-501;
  - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9)(a) indicates that an assessment is appropriate; and
  - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

Amended by Chapter 362, 2026 General Session

**Effective 7/1/2026**

**76-5-207 Automobile homicide -- Penalties -- Evidence.**

- (1)
  - (a) As used in this section:
    - (i) "Controlled substance" means the same as that term is defined in Section 58-37-101.
    - (ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).
    - (iii) "Drug" means:
      - (A) a controlled substance;
      - (B) a drug as defined in Section 58-37-101; or
      - (C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.
    - (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.
    - (v) "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 automobile homicide if the actor:
  - (a)
    - (i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual; 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, any drug, or the combined influence of alcohol and any 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 death to another; and
    - (ii) has in the actor's body any measurable amount of a controlled substance.
- (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:
  - (a) a second degree felony, punishable by a term of imprisonment of not less than five years nor more than 15 years; and
  - (b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.
- (4) An actor is not guilty of a violation of automobile homicide 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 58-37-109 if:
    - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-105 or 58-37-113; 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 adult sentencing and supervision length guidelines, as defined in Section 75E-4-101;
    - (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 when 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.
- (6) If, when imposing a sentence under this section, the court finds that it is in the interest of justice to suspend the imposition of prison, the court shall detail the finding on the record, including why a suspended prison sentence is in the interest of justice.
- (7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than three years nor more than 15 years if the court details on the record why it is in the interest of justice.
- (8)
  - (a) A judge imposing a sentence under this section shall designate the defendant as an interdicted person, as that term is defined in Section 32B-1-102, for a period of time not to exceed the probationary period, unless the court finds good cause to order a shorter or longer time.
  - (b) If a court designates a person as an interdicted person as described in Subsection (8)(a), the court shall:
    - (i) require the person to surrender the person's Utah identification card or Utah driver license;
    - (ii) notify the Driver License Division that the person is an interdicted person; and
    - (iii) provide the person's identification card or driver license to the Driver License Division.
- (9) If a minor who is under 18 years old is found by a court to have violated Subsection (2)(b), the court may order the minor to complete:
  - (a) a screening as defined in Section 41-6a-501;
  - (b) an assessment as defined in Section 41-6a-501 if the screening described in Subsection (9) (a) indicates that an assessment is appropriate; and
  - (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment described in Subsection (9)(b).

Amended by Chapter 291, 2026 General Session

**76-5-207.5 Automobile homicide involving a handheld wireless communication device while driving.**

- (1)
  - (a) As used in this section:
    - (i) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).
    - (ii) "Motor vehicle" means any self-propelled vehicle, including an automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.
    - (iii) "Negligent" means the failure to exercise the degree of care that a reasonable and prudent person exercises under similar circumstances.
    - (iv) "Wireless communication device" means the same as that term is defined in Section 41-6a-1716.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits automobile homicide if the actor:
  - (a) operates a moving motor vehicle in a negligent manner;
  - (b) while using a wireless communication device in violation of Section 41-6a-1716; and
  - (c) causes the death of another individual.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

- (b) A violation of Subsection (2) is a second degree felony if the actor operated the moving motor vehicle in a criminally negligent manner.

Amended by Chapter 111, 2023 General Session

**76-5-208 Child abuse homicide -- Penalties.**

- (1)
  - (a) As used in this section, "child abuse" means an offense described in Section 76-5-109, 76-5-109.2, 76-5-109.3, or 76-5-114.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) Unless a violation amounts to aggravated murder as described in Section 76-5-202, an actor commits child abuse homicide if:
  - (a)
    - (i) the actor causes the death of another individual who is younger than 18 years old; and
    - (ii) the individual's death results from child abuse; and
  - (b)
    - (i) the child abuse is done recklessly under Subsection 76-5-109.2(3)(b);
    - (ii) the child abuse is done with criminal negligence under Subsection 76-5-109.2(3)(c); or
    - (iii) under circumstances not amounting to the type of child abuse homicide described in Subsection (2)(b)(i), the child abuse is done intentionally, knowingly, recklessly, or with criminal negligence, under Subsection 76-5-109(3)(a), (b), or (c).
- (3)
  - (a) A violation of Subsection (2) under the circumstances described in Subsection (2)(b)(i) is a first degree felony.
  - (b) A violation of Subsection (2) under the circumstances described in Subsection (2)(b)(ii) or (iii) is a second degree felony.

Amended by Chapter 248, 2026 General Session

**76-5-209 Homicide by assault -- Penalty.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits homicide by assault if, under circumstances not amounting to aggravated murder, murder, or manslaughter:
  - (a) the actor causes the death of another individual; and
  - (b) the actor causes the other individual's death while intentionally or knowingly attempting, with unlawful force or violence, to do bodily injury to the other individual.
- (3) Homicide by assault is a third degree felony.

Amended by Chapter 181, 2022 General Session

**76-5-211 Aiding or encouraging suicide.**

- (1)
  - (a) As used in this section:
    - (i)
      - (A) "Aid" means the act of providing the physical means.
      - (B) "Aid" does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under Title 75A, Chapter 9, Uniform Health Care Decisions Act, or any other laws of this state.

- (ii) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.
- (iii) "Provides" means to administer, prescribe, distribute, or dispense.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aiding or encouraging suicide if:
  - (a) the actor intentionally, and with knowledge that another individual intends to die by suicide or attempt to die by suicide, aids the individual to die by suicide; or
  - (b)
    - (i) the actor, on four or more separate occasions, intentionally encourages another individual to die by suicide;
    - (ii) the actor is reckless as to whether the actor's course of conduct described in Subsection (2)(b)(i) would imminently cause the individual to die by suicide or attempt to die by suicide after a fourth or subsequent encouragement to die by suicide; and
    - (iii) the individual described in Subsection (2)(b)(i) dies by suicide or attempts to die by suicide.
- (3) A violation of Subsection (2) is a second degree felony with a mandatory fine of not less than \$10,000.
- (4) Upon a conviction for a violation of Subsection (2), the court shall order the imposition of at least the applicable minimum fine of the amount described in Subsection (3) and may not waive or suspend the fine.
- (5)
  - (a) A practitioner does not violate Subsection (2)(a) if the practitioner provides medication or a procedure to treat an individual's illness or relieve an individual's pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual to whom the practitioner provides the medication or procedure.
  - (b) Notwithstanding Subsection (5)(a), a practitioner violates Subsection (2)(a) if the practitioner knowingly provides the medication or procedure to aid the individual to die by suicide or attempt to die by suicide.

Enacted by Chapter 330, 2026 General Session

### **Part 3**

## **Kidnapping, Trafficking, And Smuggling**

### **76-5-301 Kidnapping.**

- (1)
  - (a) As used in this section:
    - (i) "Against the will of an individual" includes without the consent of the legal guardian, caretaker, or custodian of an individual who is a dependent adult.
    - (ii) "Dependent adult" means the same as that term is defined in Section 76-5-111.
    - (iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits kidnapping if the actor intentionally or knowingly, without authority of law, and against the will of an individual:
  - (a) detains or restrains the individual for any substantial period of time;

- (b) detains or restrains the individual in circumstances exposing the individual to risk of bodily injury;
  - (c) holds the individual in involuntary servitude;
  - (d) detains or restrains a minor without the consent of the minor's parent or legal guardian or the consent of a person acting in loco parentis; or
  - (e) moves the individual any substantial distance or across a state line.
- (3) A violation of Subsection (2) is a second degree felony.

Amended by Chapter 181, 2022 General Session

**76-5-301.1 Child kidnapping.**

- (1)
- (a) As used in this section, "child" means an individual under 14 years old.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits child kidnapping if the actor intentionally or knowingly, without authority of law, and by any means and in any manner, seizes, confines, detains, or transports a child without the consent of the child's parent or guardian, or the consent of a person acting in loco parentis.
- (3) A violation of Subsection (2) is a first degree felony.
- (4) An actor convicted of a violation of this section shall be sentenced to imprisonment of:
- (a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;
  - (b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the child kidnapping the actor caused serious bodily injury to another; or
  - (c) life without parole, if the trier of fact finds that at the time of the commission of the child kidnapping the actor was previously convicted of a grievous sexual offense.
- (5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
- (a) for purposes of Subsection (4)(b), 15 years and which may be for life; or
  - (b) for purposes of Subsection (4)(a) or (b):
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (6) The provisions of Subsection (5) do not apply when a person is sentenced under Subsection (4)(c).
- (7) Subsections (4)(b) and (4)(c) do not apply if the defendant was younger than 18 years old at the time of the offense.
- (8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.
- (9) A violation of Section 76-5-303 is not a violation of this section.

Amended by Chapter 181, 2022 General Session

**76-5-301.2 Parental kidnapping.**

- (1)
- (a) As used in this section:
    - (i) "Child" means an individual under 18 years old.

- (ii) "Custody" means court-ordered physical custody of a child entered by a court.
- (iii) "Parent" means an individual who has a parent-child relationship, as defined in Section 81-5-102, with the child.
- (iv) "Parent-time" means court-ordered parent-time or visitation entered by a court.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) A parent commits parental kidnapping of the parent's child if the parent:
  - (a) takes, entices, conceals, detains, or withholds the child from an individual entitled to custody of the child;
  - (b) intends to interfere with the custody of the child; and
  - (c)
    - (i) has never had a right to physical custody of the child;
    - (ii) has never been granted parent-time with the child;
    - (iii) has had all rights to physical custody of the child terminated by a court; or
    - (iv) at the time of the parent's action under Subsection (2)(a), had parent-time with the child terminated or suspended by a court.
- (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, during the course of parental kidnapping, the parent removes, causes the removal, or directs the removal of the child from the state.
- (4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of parental kidnapping that:
  - (a) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was:
    - (i) necessary to protect the child from imminent serious bodily injury, or death;
    - (ii) authorized by law; or
    - (iii) taken with the consent of:
      - (A) the individual entitled to custody of the child; or
      - (B) a custodian, guardian, caretaker, or other individual lawfully acting in place of the individual entitled to custody of the child; or
  - (b)
    - (i) the parent acted under a reasonable belief that the action described in Subsection (2)(a) was necessary to protect the child from abuse, including sexual abuse; and
    - (ii) before taking the action described in Subsection (2)(a), the parent reports to law enforcement the parent's intention to engage in the action and the basis for the parent's belief described in Subsection (4)(b)(i).

Amended by Chapter 155, 2026 General Session

***Superseded 1/1/2027***

**76-5-302 Aggravated kidnapping.**

- (1)
  - (a) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:
    - (i) Section 76-5-301, kidnapping; or
    - (ii) Section 76-5-304, unlawful detention.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.

- (2) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:
  - (a) uses or threatens to use a dangerous weapon; or
  - (b) acts with the intent to:
    - (i) hold the victim for ransom or reward, as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;
    - (ii) facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;
    - (iii) hinder or delay the discovery of or reporting of a felony;
    - (iv) inflict bodily injury on or to terrorize the victim or another individual;
    - (v) interfere with the performance of any governmental or political function; or
    - (vi) commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.
- (3)
  - (a) A violation of Subsection (2) in the course of committing unlawful detention is a third degree felony.
  - (b) A violation of Subsection (2) in the course of committing kidnapping is a first degree felony.
- (4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to imprisonment of:
  - (a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;
  - (b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or
  - (c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.
- (5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
  - (a) for purposes of Subsection (4)(b), 15 years and which may be for life; or
  - (b) for purposes of Subsection (4)(a) or (b):
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (6) The provisions of Subsection (5) do not apply when a defendant is sentenced under Subsection (4)(c).
- (7) Subsections (4)(b) and (c) do not apply if the actor was younger than 18 years old at the time of the offense.
- (8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 173, 2025 General Session

***Effective 1/1/2027***

**76-5-302 Aggravated kidnapping.**

- (1)
  - (a) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:
    - (i) Section 76-5-301, kidnapping; or

- (ii) Section 76-5-304, unlawful detention.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:
  - (a) uses or threatens to use a dangerous weapon; or
  - (b) acts with the intent to:
    - (i) hold the victim for ransom or reward, as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;
    - (ii) facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;
    - (iii) hinder or delay the discovery of or reporting of a felony;
    - (iv) inflict bodily injury on or to terrorize the victim or another individual;
    - (v) interfere with the performance of any governmental or political function; or
    - (vi) commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-419 or 76-5-420.
- (3)
  - (a) A violation of Subsection (2) in the course of committing unlawful detention is a third degree felony.
  - (b) A violation of Subsection (2) in the course of committing kidnapping is a first degree felony.
- (4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to imprisonment of:
  - (a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;
  - (b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or
  - (c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.
- (5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
  - (a) for purposes of Subsection (4)(b), 15 years and which may be for life; or
  - (b) for purposes of Subsection (4)(a) or (b):
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (6) The provisions of Subsection (5) do not apply when a defendant is sentenced under Subsection (4)(c).
- (7) Subsections (4)(b) and (c) do not apply if the actor was younger than 18 years old at the time of the offense.
- (8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 445, 2026 General Session

**76-5-303 Custodial interference.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means an individual under 18 years old.

- (ii) "Custody" means court-ordered physical custody entered by a court of competent jurisdiction.
- (iii) "Visitation" means court-ordered parent-time or visitation entered by a court of competent jurisdiction.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor who is entitled to custody of a child commits custodial interference if, during a period of time when another individual is entitled to visitation of the child, the actor takes, entices, conceals, detains, or withholds the child from the individual entitled to visitation of the child, with the intent to interfere with the visitation of the child.
  - (b) An actor who is entitled to visitation of a child commits custodial interference if, during a period of time when the individual is not entitled to visitation of the child, the actor takes, entices, conceals, detains, or withholds the child from an individual who is entitled to custody of the child, with the intent to interfere with the custody of the child.
- (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 actor:
    - (i) commits custodial interference; and
    - (ii) has been convicted of custodial interference at least twice in the two-year period immediately preceding the day on which the commission of custodial interference described in Subsection (3)(b)(i) occurs.
  - (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a felony of the third degree if, during the course of the custodial interference, the actor removes, causes the removal, or directs the removal of the child from the state.
- (4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of custodial interference that:
  - (a) the action is consented to by the individual whose custody or visitation of the child was interfered with; or
  - (b)
    - (i) the action is based on a reasonable belief that the action is necessary to protect a child from abuse, including sexual abuse; and
    - (ii) before engaging in the action, the actor reports the actor's intention to engage in the action, and the basis for the belief described in Subsection (4)(b)(i), to the Division of Child and Family Services or law enforcement.

Amended by Chapter 181, 2022 General Session

**76-5-303.5 Notification of conviction of custodial interference.**

- (1) As used in this section:
  - (a)
    - (i) "Convicted" means a conviction by plea or verdict or adjudication in juvenile court of a crime or offense.
    - (ii) "Convicted" includes:
      - (A) a plea of guilty or guilty with a mental condition;
      - (B) a plea of no contest; and

- (C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) If an individual is convicted of custodial interference under Section 76-5-303, the court shall notify the Driver License Division, created in Section 53-3-103, of the conviction, and whether the conviction is for:
  - (a) a class B misdemeanor, under Subsection 76-5-303(3)(a);
  - (b) a class A misdemeanor, under Subsection 76-5-303(3)(b); or
  - (c) a felony, under Subsection 76-5-303(3)(c).

Amended by Chapter 184, 2023 General Session

**76-5-304 Unlawful detention and unlawful detention of a minor.**

- (1)
  - (a) As used in this section:
    - (i) Acting "against the will of an individual" includes acting without the consent of the legal guardian, caretaker, or custodian of an individual who is:
      - (A) a dependent adult; or
      - (B) a minor who is 14 or 15 years old.
    - (ii) "Dependent 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)
  - (a) An actor commits unlawful detention if the actor intentionally or knowingly, without authority of law, and against the will of an individual, detains or restrains the individual.
  - (b) An actor commits unlawful detention of a minor if the actor is at least four or more years older than the minor, and intentionally or knowingly, without authority of law, and against the will of the minor, coerces or exerts influence over the minor with the intent to cause the minor to remain with the actor for an unreasonable period of time under the circumstances.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) If the conduct of the actor amounts to a violation under one of the following, the actor shall be charged with the violation and not under Subsection (2)(a) or (2)(b):
  - (a) kidnapping, as described in Section 76-5-301; or
  - (b) child kidnapping, as described in Section 76-5-301.1.

Amended by Chapter 181, 2022 General Session

**76-5-305 Defenses to certain offenses concerning kidnapping, custodial interference, and unlawful detention.**

- (1) It is a defense to an offense listed in Subsection (2) that:
  - (a) the actor was acting under a reasonable belief that:
    - (i) the conduct was necessary to protect any individual from imminent bodily injury or death; or
    - (ii) the detention or restraint was authorized by law; or
  - (b) the alleged victim is younger than 18 years old or is a dependent adult, as defined in Section 76-5-111, and the actor was acting under a reasonable belief that the custodian, guardian, caretaker, legal guardian, custodial parent, or person acting in loco parentis to the victim would, if present, have consented to the actor's conduct.
- (2) The offenses referred to in Subsection (1) are:

- (a) kidnapping, in violation of Section 76-5-301;
- (b) child kidnapping, in violation of Section 76-5-301.1;
- (c) parental kidnapping, in violation of Section 76-5-301.2;
- (d) aggravated kidnapping, in violation of Section 76-5-302;
- (e) custodial interference, in violation of Section 76-5-303; or
- (f) unlawful detention and unlawful detention of a minor, in violation of Section 76-5-304.

Amended by Chapter 247, 2026 General Session

**76-5-308 Human trafficking for labor.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
    - (ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
    - (iii) "Extortion" means an offense of:
      - (A) sexual extortion or aggravated sexual extortion under Section 76-5b-204; or
      - (B) theft by extortion under Section 76-6-406.
    - (iv) "Fraud" means a knowingly false or misleading material representation of fact that is:
      - (A) made to obtain money, property, a benefit, or a service to which a person is not entitled;
      - (B) intended to cause another person to rely upon the representation; and
      - (C) relied upon by another person.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits human trafficking for labor if:
  - (a) the actor enlists, harbors, transports, obtains, or uses an individual for the purpose of procuring or using the individual's labor through the use of force, fraud, or coercion;
  - (b) the labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance; and
  - (c) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:
    - (i) causing, or threatening to cause, serious harm to the individual or another individual;
    - (ii) physically restraining, or threatening to physically restrain, the individual or another individual;
    - (iii) destroying, concealing, removing, confiscating, or unlawfully possessing a passport, immigration document, or other government-issued identification document;
    - (iv) using, or threatening to use, the legal process in an unlawful manner against the individual or another individual;
    - (v) kidnapping, or threatening to kidnap, the individual or another individual;
    - (vi) extortion of the individual or another individual;
    - (vii) facilitating or controlling the individual's access to a controlled substance; or
    - (viii) creating or exploiting a circumstance under which:
      - (A) the individual is unable to terminate the employment relationship; or
      - (B) the individual is unlawfully forced to remain in a condition of servitude.
- (3)
  - (a) A violation of Subsection (2) is a second degree felony if the violation is done knowingly.
  - (b) A violation of Subsection (2) is a third degree felony if the violation is done recklessly.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Amended by Chapter 247, 2026 General Session

**76-5-308.1 Human trafficking for commercial sexual exploitation.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial sexual act" means participating in an act of sexual activity with another individual for which anything of value is offered, given to, or received by any individual.
    - (ii)
      - (A) "Commercial sexually explicit performance" means a sexually explicit performance or activity for which anything of value is offered, given to, or received by any individual.
      - (B) "Commercial sexually explicit performance" does not include a commercial sexual act.
    - (iii) "Extortion" means the same as that term is defined in Section 76-5-308.
    - (iv) "Fraud" means the same as that term is defined in Section 76-5-308.
    - (v) "Sexual activity" means:
      - (A) sexual intercourse or any other sexual act involving the genitals of one individual and the mouth or anus of another individual; or
      - (B) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits human trafficking for commercial sexual exploitation if:
  - (a) the actor enlists, harbors, transports, obtains, patronizes, or solicits an individual for the purpose of procuring the individual's labor in the form of a commercial sexually explicit performance or commercial sexual act through the use of force, fraud, or coercion; and
  - (b) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:
    - (i) causing, or threatening to cause, serious harm to the individual or another individual;
    - (ii) physically restraining, or threatening to physically restrain, the individual or another individual;
    - (iii) destroying, concealing, removing, confiscating, or unlawfully possessing a passport, immigration document, or other government-issued identification document;
    - (iv) using, or threatening to use, the legal process in an unlawful manner against the individual or another individual;
    - (v) kidnapping, or threatening to kidnap, the individual or another individual;
    - (vi) extortion of the individual or another individual;
    - (vii) facilitating or controlling the individual's access to a controlled substance; or
    - (viii) creating or exploiting a circumstance under which:
      - (A) the individual is unable to terminate the employment relationship; or
      - (B) the individual is unlawfully forced to remain in a condition of servitude.
- (3)
  - (a) A violation of Subsection (2) is a first degree felony if the violation:
    - (i) involves a commercial sexual act; and
    - (ii) is done knowingly.
  - (b) A violation of Subsection (2) is a second degree felony if the violation:
    - (i)
      - (A) involves a commercial sexually explicit performance; and
      - (B) is done knowingly; or
    - (ii)
      - (A) involves a commercial sexual act; and
      - (B) is done recklessly.

- (c) A violation of Subsection (2) is a third degree felony if the violation:
  - (i) involves a commercial sexually explicit performance; and
  - (ii) is done recklessly.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Amended by Chapter 247, 2026 General Session

**76-5-308.5 Human trafficking of a child for labor.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means an individual who is younger than 18 years old.
    - (ii) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
    - (iii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
    - (iv) "Extortion" means the same as that term is defined in Section 76-5-308.
    - (v) "Fraud" means the same as that term is defined in Section 76-5-308.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits human trafficking of a child for labor if:
  - (a) the actor enlists, harbors, transports, obtains, or uses a child for the purpose of procuring or using the child's labor through the use of force, fraud, or coercion of either the child or an individual who has the ability to control the actions of the child;
  - (b) the labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance; and
  - (c) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:
    - (i) causing, or threatening to cause, serious harm to the child or another individual;
    - (ii) physically restraining, or threatening to physically restrain, the child or another individual;
    - (iii) destroying, concealing, removing, confiscating, or unlawfully possessing a passport, immigration document, or other government-issued identification document;
    - (iv) using, or threatening to use, the legal process in an unlawful manner against the child or another individual;
    - (v) kidnapping, or threatening to kidnap, the child or another individual;
    - (vi) extortion of the child or another individual;
    - (vii) facilitating or controlling the child's access to a controlled substance; or
    - (viii) creating or exploiting a circumstance under which:
      - (A) the child, or an individual who has the ability to control the actions of the child, is unable to terminate the employment relationship; or
      - (B) the child is unlawfully forced to remain in a condition of servitude.
- (3)
  - (a) A violation of Subsection (2) that is done knowingly is a first degree felony punishable by a term of imprisonment of not less than:
    - (i) 10 years and which may be for life if the child described in Subsection (2) is 14 years old or older but younger than 18 years old; or
    - (ii) 15 years and which may be for life if the child described in Subsection (2) is under 14 years old.
  - (b) A violation of Subsection (2) that is done recklessly is a second degree felony.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

- (5) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the child described in Subsection (2) was 18 years old or older at the time of the violation of Subsection (2) or was unaware of the child's true age.

Amended by Chapter 247, 2026 General Session

**76-5-308.6 Human trafficking of a child for commercial sexual exploitation.**

- (1)
- (a) As used in this section:
- (i) "Child" means an individual who is younger than 18 years old.
  - (ii) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
  - (iii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits human trafficking of a child for commercial sexual exploitation if the actor enlists, harbors, transports, obtains, patronizes, or solicits a child for the purpose of procuring the child's labor in the form of a commercial sexual act or a commercial sexually explicit performance.
- (3)
- (a) A violation of Subsection (2) that is done knowingly is a first degree felony punishable by a term of imprisonment of not less than:
- (i) 10 years and which may be for life if the child described in Subsection (2) is 14 years old or older but younger than 18 years old; or
  - (ii) 15 years and which may be for life if the child described in Subsection (2) is under 14 years old.
- (b) A violation of Subsection (2) that is done recklessly is a second degree felony.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.
- (5) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the child described in Subsection (2) was 18 years old or older at the time of the violation of Subsection (2) or was unaware of the child's true age.

Enacted by Chapter 247, 2026 General Session

**76-5-309 Criminal liability based on benefiting from human trafficking or human smuggling.**

- (1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.
- (2) An actor is a party to the offense if the actor benefits, receives, or exchanges anything of value from knowing participation in:
- (a) human trafficking for labor in violation of Section 76-5-308;
  - (b) human trafficking for commercial sexual exploitation in violation of Section 76-5-308.1;
  - (c) human trafficking of a child for labor in violation of Section 76-5-308.5;
  - (d) human trafficking of a child for commercial sexual exploitation in violation of Section 76-5-308.6;
  - (e) human trafficking of a vulnerable adult for labor in violation of Section 76-5-311;
  - (f) human trafficking of a vulnerable adult for commercial sexual exploitation in violation of Section 76-5-312; or
  - (g) human smuggling in violation of Section 76-5-316.

Amended by Chapter 247, 2026 General Session

**76-5-310 Aggravated human trafficking for labor.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated human trafficking for labor if, in the course of committing an offense of human trafficking for labor under Section 76-5-308, the offense:
  - (a) results in the death of an individual who is a victim of the offense described in Section 76-5-308;
  - (b) results in serious bodily injury of an individual who is a victim of the offense described in Section 76-5-308;
  - (c) involves:
    - (i) rape under Section 76-5-402;
    - (ii) rape of a child under Section 76-5-402.1;
    - (iii) object rape under Section 76-5-402.2;
    - (iv) object rape of a child under Section 76-5-402.3;
    - (v) forcible sodomy under Section 76-5-403;
    - (vi) sodomy on a child under Section 76-5-403.1;
    - (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or
    - (viii) aggravated sexual assault under Section 76-5-405;
  - (d) involves the trafficking of 10 or more individuals; or
  - (e) involves an individual trafficked for longer than 30 consecutive days.
- (3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.
- (4) An offense under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Amended by Chapter 247, 2026 General Session

**76-5-310.2 Aggravated human trafficking for commercial sexual exploitation.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated human trafficking for commercial sexual exploitation if, in the course of committing an offense of human trafficking for commercial sexual exploitation under Section 76-5-308.1, the offense:
  - (a) results in the death of an individual who is a victim of the offense described in Section 76-5-308.1;
  - (b) results in serious bodily injury of an individual who is a victim of the offense described in Section 76-5-308.1;
  - (c) involves:
    - (i) rape under Section 76-5-402;
    - (ii) rape of a child under Section 76-5-402.1;
    - (iii) object rape under Section 76-5-402.2;
    - (iv) object rape of a child under Section 76-5-402.3;
    - (v) forcible sodomy under Section 76-5-403;
    - (vi) sodomy on a child under Section 76-5-403.1;
    - (vii) aggravated sexual abuse of a child under Section 76-5-404.3; or
    - (viii) aggravated sexual assault under Section 76-5-405;
  - (d) involves the trafficking of 10 or more individuals; or
  - (e) involves an individual trafficked for longer than 30 consecutive days.

- (3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Enacted by Chapter 247, 2026 General Session

**76-5-311 Human trafficking of a vulnerable adult for labor.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
    - (ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
    - (iii) "Extortion" means the same as that term is defined in Section 76-5-308.
    - (iv) "Fraud" means the same as that term is defined in Section 76-5-308.
    - (v) "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 human trafficking of a vulnerable adult for labor if:
  - (a) the actor enlists, harbors, transports, obtains, or uses a vulnerable adult for the purpose of procuring or using the vulnerable adult's labor through the use of force, fraud, or coercion of either the vulnerable adult or an individual who has the ability to control the actions of the vulnerable adult;
  - (b) the labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance;
  - (c) the actor's use of force, fraud, or coercion described in Subsection (2)(a) involves:
    - (i) causing, or threatening to cause, serious harm to the vulnerable adult or another individual;
    - (ii) physically restraining, or threatening to physically restrain, the vulnerable adult or another individual;
    - (iii) destroying, concealing, removing, confiscating, or unlawfully possessing a passport, immigration document, or other government-issued identification document;
    - (iv) using, or threatening to use, the legal process in an unlawful manner against the vulnerable adult or another individual;
    - (v) kidnapping, or threatening to kidnap, the vulnerable adult or another individual;
    - (vi) extortion of the vulnerable adult or another individual;
    - (vii) facilitating or controlling the vulnerable adult's access to a controlled substance; or
    - (viii) creating or exploiting a circumstance under which:
      - (A) the vulnerable adult, or an individual who has the ability to control the actions of the vulnerable adult, is unable to terminate the employment relationship; or
      - (B) the vulnerable adult is unlawfully forced to remain in a condition of servitude; and
  - (d) the actor knows, is reckless, or is criminally negligent as to whether, the vulnerable adult described in Subsection (2)(a) is a vulnerable adult.
- (3)
  - (a) A violation of Subsection (2) in which the violation of Subsections (2)(a) and (c) is done knowingly is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.
  - (b) A violation of Subsection (2) in which the violation of Subsections (2)(a) and (c) is done recklessly is a second degree felony.

- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Amended by Chapter 247, 2026 General Session

**76-5-312 Human trafficking of a vulnerable adult for commercial sexual exploitation.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
    - (ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
    - (iii) "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 human trafficking of a vulnerable adult for commercial sexual exploitation if the actor enlists, harbors, transports, obtains, patronizes, or solicits a vulnerable adult for the purpose of procuring the vulnerable adult's labor in the form of a commercial sexual act or a commercial sexually explicit performance.
- (3)
  - (a) A violation of Subsection (2) that is done knowingly is a first degree felony punishable by a term of imprisonment of not less than 10 years and which may be for life.
  - (b) A violation of Subsection (2) that is done recklessly is a second degree felony.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Enacted by Chapter 247, 2026 General Session

**76-5-313 Patronizing a victim of human labor trafficking.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
    - (ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
    - (iii) "Fraud" means the same as that term is defined in Section 76-5-308.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits patronizing a victim of labor trafficking if:
  - (a) the actor knowingly requests or accepts labor or services from an individual;
  - (b) the labor or services described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance; and
  - (c) the actor:
    - (i) knows the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual; or
    - (ii) is reckless as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual.
- (3)
  - (a) A violation of Subsection (2)(c)(i) is a third degree felony.
  - (b)
    - (i) Except as provided in Subsection (3)(b)(ii), a violation of Subsection (2)(c)(ii) is a class A misdemeanor.

- (ii) A violation of Subsection (2)(c)(ii) is a third degree felony on a second or any subsequent conviction for a violation of Subsection (2)(c)(ii).

Enacted by Chapter 247, 2026 General Session

**76-5-314 Patronizing a child victim of human labor trafficking.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means an individual who is younger than 18 years old.
    - (ii) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.
    - (iii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
    - (iv) "Fraud" means the same as that term is defined in Section 76-5-308.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits patronizing a child victim of labor exploitation if:
  - (a) the actor knowingly requests or accepts services or labor from an individual;
  - (b) the services or labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance;
  - (c) the actor knows, is reckless, or is criminally negligent as to whether, the individual described in Subsection (2)(a) is a child;
  - (d) the individual described in Subsection (2)(a) is a child; and
  - (e) the actor:
    - (i) knows the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual;
    - (ii) is reckless as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual; or
    - (iii) is criminally negligent as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual.
- (3)
  - (a) A violation of Subsection (2)(e)(i) is a second degree felony.
  - (b)
    - (i) Except as provided in Subsection (3)(b)(ii), a violation of Subsection (2)(e)(ii) is a third degree felony.
    - (ii) A violation of Subsection (2)(e)(ii) is a second degree felony on a second or any subsequent conviction for a violation of Subsection (2)(e)(ii).
  - (c)
    - (i) Except as provided in Subsection (3)(c)(ii), a violation of Subsection (2)(e)(iii) is a class A misdemeanor.
    - (ii) A violation of Subsection (2)(e)(iii) is a third degree felony on a second or any subsequent conviction for a violation of Subsection (2)(e)(iii).

Enacted by Chapter 247, 2026 General Session

**76-5-315 Patronizing a vulnerable adult victim of human labor trafficking.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial sexual act" means the same as that term is defined in Section 76-5-308.1.

- (ii) "Commercial sexually explicit performance" means the same as that term is defined in Section 76-5-308.1.
- (iii) "Fraud" means the same as that term is defined in Section 76-5-308.
- (iv) "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 patronizing a vulnerable adult victim of human labor trafficking if:
  - (a) the actor knowingly requests or accepts services or labor from an individual;
  - (b) the services or labor described in Subsection (2)(a) is not a commercial sexual act or a commercial sexually explicit performance;
  - (c) the actor knows, is reckless, or is criminally negligent as to whether, the individual described in Subsection (2)(a) is a vulnerable adult;
  - (d) the individual described in Subsection (2)(a) is a vulnerable adult; and
  - (e) the actor:
    - (i) knows the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual;
    - (ii) is reckless as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual; or
    - (iii) is criminally negligent as to whether the individual's services or labor is being provided as a result of another person's exercise of force, fraud, or coercion over the individual.
- (3)
  - (a) A violation of Subsection (2)(e)(i) is a second degree felony.
  - (b)
    - (i) Except as provided in Subsection (3)(b)(ii), a violation of Subsection (2)(e)(ii) is a third degree felony.
    - (ii) A violation of Subsection (2)(e)(ii) is second degree felony on a second or any subsequent conviction for a violation of Subsection (2)(e)(ii).
  - (c)
    - (i) Except as provided in Subsection (3)(c)(ii), a violation of Subsection (2)(e)(iii) is a class A misdemeanor.
    - (ii) A violation of Subsection (2)(e)(iii) is a third degree felony on a second or any subsequent conviction for a violation of Subsection (2)(e)(iii).

Enacted by Chapter 247, 2026 General Session

**76-5-316 Human smuggling.**

- (1)
  - (a) As used in this section:
    - (i) "Commercial purpose" includes direct or indirect participation in, or facilitation of, the transportation of one or more individuals for the purpose of:
      - (A) charging or obtaining a fee, or attempting to charge or obtain a fee, for the transportation;
      - or
      - (B) obtaining, exchanging, or receiving, or attempting to obtain, exchange, or receive, any thing or item of value.
    - (ii) "Facilitation of the transportation" includes providing:
      - (A) travel arrangement services;
      - (B) payment for the costs of travel; or
      - (C) property that would advance an act of transportation, including:
        - (I) a vehicle or other means of transportation;

- (II) a weapon;
  - (III) false identification; or
  - (IV) making lodging available, including by rent, lease, or sale.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits human smuggling if the actor transports or procures the transportation for one or more individuals for a commercial purpose, knowing or having reason to know that the individual or individuals transported or to be transported are not:
- (a) citizens of the United States;
  - (b) permanent resident aliens; or
  - (c) otherwise lawfully in this state or entitled to be in this state.
- (3) A violation of Subsection (2) is a second degree felony.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Renumbered and Amended by Chapter 247, 2026 General Session

**76-5-317 Aggravated human smuggling.**

- (1)
- (a) As used in this section, "family member" means an individual's parent, grandparent, sibling, or other individual related to the individual by consanguinity or affinity to the second degree.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated human smuggling if, in the course of committing human smuggling in violation of Section 76-5-316, the offense:
- (a) results in the death of an individual who is a victim of the offense described in Section 76-5-316;
  - (b) results in serious bodily injury of an individual who is a victim of the offense described in Section 76-5-316;
  - (c) involves the smuggling of a child and the child is not accompanied by a family member who is 18 years old or older;
  - (d) involves:
    - (i) rape under Section 76-5-402;
    - (ii) rape of a child under Section 76-5-402.1;
    - (iii) object rape under Section 76-5-402.2;
    - (iv) object rape of a child under Section 76-5-402.3;
    - (v) forcible sodomy under Section 76-5-403;
    - (vi) sodomy on a child under Section 76-5-403.1;
    - (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
    - (viii) aggravated sexual assault under Section 76-5-405; or
  - (e) involves the smuggling of 10 or more individuals.
- (3) A violation of Subsection (2) is a first degree felony.
- (4) An offense committed under this section is a separate offense from any other offense committed in relationship to the commission of an offense under this section.

Renumbered and Amended by Chapter 247, 2026 General Session

**Part 4**

## Sexual Offenses

### **76-5-401 Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.**

- (1)
- (a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if the actor:
    - (i) has sexual intercourse with the minor;
    - (ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth or anus of another individual; or
    - (iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.
  - (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).
- (3)
- (a) A violation of Subsection (2) is a third degree felony.
  - (b) Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a class B misdemeanor if the defendant establishes by a preponderance of the evidence the mitigating factor that:
    - (i) the defendant is less than four years older than the minor at the time the sexual activity occurred; or
    - (ii) the defendant is 18 years old and enrolled in high school at the time the sexual activity occurred.
  - (c) Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2)(a) are:
- (a) rape, in violation of Section 76-5-402;
  - (b) object rape, in violation of Section 76-5-402.2;
  - (c) forcible sodomy, in violation of Section 76-5-403;
  - (d) aggravated sexual assault, in violation of Section 76-5-405; or
  - (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Amended by Chapter 291, 2025 General Session

### **76-5-401.1 Sexual abuse of a minor.**

- (1)
- (a) As used in this section:
    - (i) "Female breast" means the undeveloped, partially developed, or developed breast of a female individual.
    - (ii) "Indecent liberties" means:

- (A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;
  - (B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;
  - (C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or
  - (D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.
- (iii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:
- (i) is four years or more older than the minor; and
  - (ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:
    - (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
    - (B) touches the female breast of a minor; or
    - (C) otherwise takes indecent liberties with the minor.
- (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2)(a) is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2)(a) are:
- (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
  - (b) rape, in violation of Section 76-5-402;
  - (c) object rape, in violation of Section 76-5-402.2;
  - (d) forcible sodomy, in violation of Section 76-5-403;
  - (e) aggravated sexual assault, in violation of Section 76-5-405; or
  - (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 291, 2025 General Session

Amended by Chapter 320, 2025 General Session

#### **76-5-401.2 Unlawful sexual conduct with a 16- or 17-year-old -- Penalties -- Limitations.**

- (1)
- (a) As used in this section:
- (i) "Female breast" means the same as that term is defined in Section 76-5-401.1.
  - (ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
  - (iii) "Minor" means an individual who is 16 years old or older, but younger than 18 years old, at the time the sexual conduct described in Subsection (2) occurred.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual conduct with a minor if the actor:
- (i)

- (A) is seven or more years older but less than 10 years older than the minor at the time of the sexual conduct;
  - (B) engages in any conduct listed in Subsection (2)(b); and
  - (C) knew or reasonably should have known the age of the minor; or
- (ii)
- (A) is 10 or more years older than the minor at the time of the sexual conduct; and
  - (B) engages in any conduct listed in Subsection (2)(b).
- (b) As used in Subsection (2)(a), "sexual conduct" refers to when the actor:
- (i) has sexual intercourse with the minor;
  - (ii) engages in any sexual act with the minor involving the genitals of one individual and the mouth or anus of another individual;
- (iii)
- (A) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body; and
  - (B) causes the penetration with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual; or
- (iv) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:
- (A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;
  - (B) touches the female breast of a minor; or
  - (C) otherwise takes indecent liberties with the minor.
- (c)
- (i) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
  - (ii) Any penetration, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(i).
  - (iii) Any touching, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(ii).
- (3)
- (a) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.
  - (b) A violation of Subsection (2)(b)(iv) is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2)(a) are:
- (a) rape, in violation of Section 76-5-402;
  - (b) object rape, in violation of Section 76-5-402.2;
  - (c) forcible sodomy, in violation of Section 76-5-403;
  - (d) forcible sexual abuse, in violation of Section 76-5-404;
  - (e) aggravated sexual assault, in violation of Section 76-5-405; or
  - (f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Amended by Chapter 223, 2025 General Session  
Amended by Chapter 320, 2025 General Session

**76-5-401.3 Unlawful adolescent sexual activity -- Penalties -- Limitations.**

- (1)
- (a) As used in this section, "adolescent" means an individual who is 12 years old or older but younger than 18 years old.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.

- (2) Under circumstances not amounting to an offense listed in Subsection (5), an actor commits unlawful sexual activity if:
- (a)
    - (i) the actor is 12 years old or older but younger than 18 years old;
    - (ii) the actor engages in sexual activity with an adolescent;
    - (iii) the actor is not the biological sibling of the adolescent; and
    - (iv) both the actor and the adolescent mutually agree to the sexual activity; or
  - (b)
    - (i) the actor engages in sexual activity with an adolescent who is 13 years old;
    - (ii) the actor is 18 years old and enrolled in high school at the time that the sexual activity occurred;
    - (iii) the actor is not the biological sibling of the adolescent; and
    - (iv) both the actor and the adolescent mutually agree to the sexual activity.
- (3)
- (a) A violation of Subsection (2)(a) is a:
    - (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
    - (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
    - (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
    - (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;
    - (v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;
    - (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;
    - (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and
    - (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.
  - (b) A violation of Subsection (2)(b) is a third degree felony.
- (4) The actor and the adolescent do not mutually agree to the sexual activity under Subsection (2) if:
- (a) the adolescent expresses lack of agreement to the sexual activity through words or conduct;
  - (b) the actor overcomes the adolescent's will through:
    - (i) threats to the adolescent or any other individual;
    - (ii) force;
    - (iii) coercion; or
    - (iv) enticement;
  - (c) the actor is able to overcome the adolescent through concealment or by the element of surprise;
  - (d) the actor knows, or reasonably should know, that the adolescent has a mental disease or defect, which renders the adolescent unable to:
    - (i) appraise the nature of the act;
    - (ii) resist the act;
    - (iii) understand the possible consequences to the adolescent's health or safety; or
    - (iv) appraise the nature of the relationship between the actor and the adolescent;

- (e) the actor knows that the adolescent participates in the sexual activity because the adolescent erroneously believes that the actor is someone else; or
  - (f) the actor intentionally impaired the power of the adolescent to appraise or control the adolescent's conduct by administering any substance without the adolescent's knowledge.
- (5) The offenses referred to in Subsection (2) are:
- (a) rape under Section 76-5-402;
  - (b) object rape under Section 76-5-402.2;
  - (c) forcible sodomy under Section 76-5-403;
  - (d) aggravated sexual assault under Section 76-5-405;
  - (e) incest under Section 76-7-102; or
  - (f) an attempt to commit an offense listed in Subsections (5)(a) through (e).
- (6) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.
- (7) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

Amended by Chapter 291, 2025 General Session

**76-5-402 Rape.**

- (1)
- (a) As used in this section, "incapacitated individual" means:
    - (i) an individual 14 years old or older with:
      - (A) an intellectual disease or defect;
      - (B) a physical disease or defect;
      - (C) a neurological disease or defect; or
      - (D) a cognitive disease or defect; and
    - (ii) as a result of the disease or defect described in Subsection (1)(a)(i), the individual is unable to meet two or more of the following requirements:
      - (A) appraise the nature of an act of sexual intercourse;
      - (B) resist or escape an act of sexual intercourse; or
      - (C) report an act of sexual intercourse committed against the individual.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits rape if the actor has sexual intercourse with another individual without the individual's consent.
  - (b) Any sexual penetration, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
  - (c) This section applies whether or not the actor is married to the individual.
- (3) A violation of Subsection (2) is a felony of the first degree, punishable by a term of imprisonment of:
- (a) except as provided in Subsection (3)(b), (c), or (d), not less than five years and which may be for life;
  - (b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;

- (c) except as provided in Subsection (3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:
  - (i) during the course of the commission of the rape the defendant caused serious bodily injury to the victim; or
  - (ii) at the time of the commission of the rape, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or
- (d) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.
- (4)
  - (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.
  - (b) If, when imposing a sentence under Subsection (3)(c), a court finds that a lesser term than the term described in Subsection (3)(c) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply when a defendant is sentenced under Subsection (3)(a) or (d).
- (6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 412, 2025 General Session

**76-5-402.1 Rape of a child -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means an individual who is younger than 14 years old.
    - (ii) "Sexual intercourse" means:
      - (A) any touching skin-to-skin, however slight, of an individual's genitals to another individual's genitals; or
      - (B) any penetration, however slight, of an individual's genitals by another individual's genitals, whether over or under the clothing.
    - (iii) "Simulated intercourse" means rubbing or otherwise stimulating or attempting to stimulate an individual's genitals or pubic area by another individual's genitals or pubic area whether over or under the clothing.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits rape of a child if the actor:
  - (a) has sexual intercourse with a child; or
  - (b) intentionally engages in simulated intercourse with a child.
- (3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
  - (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or
  - (b) life without parole, if the trier of fact finds that:
    - (i) during the course of the commission of the rape of a child, the defendant caused serious bodily injury to the victim; or

- (ii) at the time of the commission of the rape of a child the defendant was previously convicted of a grievous sexual offense.
- (4) Subsection (3)(b) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (5)
  - (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:
    - (i) it is a first time offense for the defendant under this section;
    - (ii) the defendant was younger than 21 years old at the time of the offense; and
    - (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
  - (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:
    - (i) 15 years and which may be for life;
    - (ii) 10 years and which may be for life; or
    - (iii) six years and which may be for life.
- (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 97, 2024 General Session

**76-5-402.2 Object rape.**

- (1)
  - (a) As used in this section, "incapacitated individual" means the same as that term is defined in Section 76-5-402.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits object rape if:
  - (a) the actor:
    - (i) acts without an individual's consent;
    - (ii) causes the penetration, however slight, of the genital or anal opening of the individual by:
      - (A) a foreign object;
      - (B) a substance;
      - (C) an instrument;
      - (D) a device; or
      - (E) a part of the human body other than the mouth or genitals; and
    - (iii)
      - (A) intends to cause substantial emotional or bodily pain to the individual; or
      - (B) intends to arouse or gratify the sexual desire of any individual; and
  - (b) the individual described in Subsection (2)(a)(i) is 14 years old or older.
- (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:
  - (a) except as provided in Subsection (3)(b), (c), or (d), not less than five years and which may be for life;
  - (b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;
  - (c) except as provided in Subsection (3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:

- (i) during the course of the commission of the object rape the defendant caused serious bodily injury to the victim; or
  - (ii) at the time of the commission of the object rape, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or
  - (d) life without parole, if the trier of fact finds that at the time of the commission of the object rape, the defendant was previously convicted of a grievous sexual offense.
- (4)
- (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.
  - (b) If, when imposing a sentence under Subsection (3)(c), a court finds that a lesser term than the term described in Subsection (3)(c) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3) (a) or (d).
- (6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 412, 2025 General Session

**76-5-402.3 Object rape of a child -- Penalty.**

- (1)
- (a) As used in this section:
    - (i) "Child" means an individual who is younger than 14 years old.
    - (ii) "Masturbatory contact" means the stimulation or attempted stimulation of an individual's genitals or pubic area by another individual.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits object rape of a child if:
- (a)
    - (i) the actor causes the penetration , however slight, whether over or under the clothing, of the genitals or anus of a child by:
      - (A) a foreign object;
      - (B) a substance;
      - (C) an instrument;
      - (D) a device; or
      - (E) a part of the human body other than the mouth or genitals;
    - (ii) the actor causes the touching, however slight, of the skin of the genitals or anus of a child by:
      - (A) a foreign object;
      - (B) a substance;
      - (C) an instrument;
      - (D) a device; or
      - (E) a part of the human body other than the mouth or genitals; or
    - (iii) the actor causes the masturbatory contact over or under the clothing of the genitals or anus of a child by:

- (A) a foreign object;
  - (B) a substance;
  - (C) an instrument;
  - (D) a device; or
  - (E) a part of the human body other than the mouth or genitals; and
- (b) the actor:
- (i) intends to cause substantial emotional or bodily pain to the child; or
  - (ii) intends to arouse or gratify the sexual desire of any individual.
- (3)
- (a) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
    - (i) except as provided in Subsections (3)(a)(ii) and (4), not less than 25 years and which may be for life; or
    - (ii) life without parole, if the trier of fact finds that:
      - (A) during the course of the commission of the object rape of a child the defendant caused serious bodily injury to the victim; or
      - (B) at the time of the commission of the object rape of a child the defendant was previously convicted of a grievous sexual offense.
  - (b) Subsection (3)(a)(ii) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (4)
- (a) When imposing a sentence under Subsections (3)(a)(i) and (4)(b), a court may impose a term of imprisonment under Subsection (4)(b) if:
    - (i) it is a first time offense for the defendant under this section;
    - (ii) the defendant was younger than 21 years old at the time of the offense; and
    - (iii) the court finds that a lesser term than the term described in Subsection (3)(a)(i) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
  - (b) If the conditions of Subsection (4)(a) are met, the court may impose a term of imprisonment of not less than:
    - (i) 15 years and which may be for life;
    - (ii) 10 years and which may be for life; or
    - (iii) six years and which may be for life.
- (5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 97, 2024 General Session

**76-5-403 Forcible sodomy.**

- (1)
- (a) As used in this section:
    - (i) "Incapacitated individual" means the same as that term is defined in Section 76-5-402.
    - (ii) "Sodomy" means engaging in any sexual act with an individual who is 14 years old or older involving the genitals of one individual and the mouth or anus of another individual.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits forcible sodomy when the actor commits sodomy upon another individual without the other individual's consent.
  - (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

- (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:
  - (a) except as provided in Subsection (3)(b), (c), or (d), not less than five years and which may be for life;
  - (b) except as provided in Subsection (3)(c), (3)(d), or (4)(a), 10 years and which may be for life if the trier of fact finds that the act committed by the actor described in Subsection (2) was committed against an incapacitated individual;
  - (c) except as provided in Subsection (3)(d) or (4)(b), 15 years and which may be for life, if the trier of fact finds that:
    - (i) during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to the victim; or
    - (ii) at the time of the commission of the forcible sodomy, the defendant was younger than 18 years old and was previously convicted of a grievous sexual offense; or
  - (d) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.
- (4)
  - (a) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.
  - (b) If, when imposing a sentence under Subsection (3)(c), a court finds that a lesser term than the term described in Subsection (3)(c) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply when a defendant is sentenced under Subsection (3)(a) or (d).
- (6) Imprisonment under Subsection (3)(b), (3)(c), (3)(d), or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 412, 2025 General Session

**76-5-403.1 Sodomy on a child -- Penalties.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor commits sodomy on a child if:
    - (i) the actor engages in any sexual act upon or with another individual;
    - (ii) the individual is younger than 14 years old; and
    - (iii) the sexual act involves the genitals or anus of the actor or the individual and the mouth or anus of either the actor or individual.
  - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2)(a) is a first degree felony punishable by a term of imprisonment of:
  - (a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or
  - (b) life without parole, if the trier of fact finds that:
    - (i) during the course of the commission of the sodomy on a child the defendant caused serious bodily injury to the victim; or

- (ii) at the time of the commission of the sodomy on a child, the defendant was previously convicted of a grievous sexual offense.
- (4) Subsection (3)(b) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (5)
  - (a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:
    - (i) it is a first time offense for the defendant under this section;
    - (ii) the defendant was younger than 21 years old at the time of the offense; and
    - (iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.
  - (b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:
    - (i) 15 years and which may be for life;
    - (ii) 10 years and which may be for life; or
    - (iii) six years and which may be for life.
- (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 181, 2022 General Session

**76-5-404 Forcible sexual abuse -- Penalties -- Limitations.**

- (1)
  - (a) As used in this section:
    - (i) "Female breast" means the same as that term is defined in Section 76-5-401.1
    - (ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits forcible sexual abuse if:
    - (i) without the consent of the individual, the actor:
      - (A) touches the anus, buttocks, pubic area, or any part of the genitals of another individual;
      - (B) touches the female breast of another individual; or
      - (C) otherwise takes indecent liberties with another individual;
    - (ii) the actor intends to:
      - (A) cause substantial emotional or bodily pain to any individual; or
      - (B) arouse or gratify the sexual desire of any individual; and
    - (iii) the individual described in Subsection (2)(a)(i)(A), (B), or (C) is 14 years old or older.
  - (b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
  - (a) A violation of Subsection (2) is a second degree felony, punishable by a term of imprisonment of not less than one year nor more than 15 years.
  - (b)
    - (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (3)(b)(ii), a violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the actor caused serious bodily injury to the victim.

- (ii) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
  - (A) 10 years and which may be for life; or
  - (B) six years and which may be for life.
- (4) The offenses referred to in Subsection (2)(a) are:
  - (a) rape, in violation of Section 76-5-402;
  - (b) object rape, in violation of Section 76-5-402.2;
  - (c) forcible sodomy, in violation of Section 76-5-403; or
  - (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).
- (5) Imprisonment under Subsection (3)(b) or (4) is mandatory in accordance with Section 76-3-406.

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

### **76-5-404.1 Sexual abuse of a child -- Penalties -- Limitations.**

- (1)
  - (a) As used in this section:
    - (i) "Adult" means an individual 18 years old or older.
    - (ii) "Child" means an individual younger than 14 years old.
    - (iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.
    - (iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
    - (v) "Position of special trust" means:
      - (A) an adoptive parent;
      - (B) an athletic manager who is an adult;
      - (C) an aunt;
      - (D) a babysitter;
      - (E) a coach;
      - (F) a cohabitant of a parent if the cohabitant is an adult;
      - (G) a counselor;
      - (H) a doctor or physician;
      - (I) an employer;
      - (J) a foster parent;
      - (K) a grandparent;
      - (L) a legal guardian;
      - (M) a parent;
      - (N) a recreational leader who is an adult;
      - (O) a religious leader;
      - (P) a sibling or a stepsibling who is an adult;
      - (Q) a scout leader who is an adult;
      - (R) a stepparent;
      - (S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;
      - (T) an instructor, professor, or teaching assistant at a public or private institution of higher education;
      - (U) an uncle;
      - (V) a youth leader who is an adult; or

- (W) any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(v)(A) through (V), which enables the individual to exercise undue influence over the child.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:
    - (i)
      - (A) touches, whether over or under the clothing, the buttocks or pubic area of a child;
      - (B) touches, whether over or under the clothing, the female breast of a child;
      - (C) touches the anus or genitals of a child over the clothing; or
      - (D) otherwise takes indecent liberties with a child whether over or under the clothing; and
    - (ii) the actor's conduct is with intent to:
      - (A) cause substantial emotional or bodily pain to any individual; or
      - (B) arouse or gratify the sexual desire of any individual.
  - (b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3) A violation of Subsection (2) is a second degree felony.
- (4) The offenses referred to in Subsection (2)(a) are:
  - (a) rape of a child, in violation of Section 76-5-402.1;
  - (b) object rape of a child, in violation of Section 76-5-402.3;
  - (c) sodomy on a child, in violation of Section 76-5-403.1; or
  - (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

Amended by Chapter 155, 2026 General Session

### **76-5-404.3 Aggravated sexual abuse of a child -- Penalties.**

- (1)
  - (a) As used in this section:
    - (i) "Adult" means the same as that term is defined in Section 76-5-404.1.
    - (ii) "Child" means the same as that term is defined in Section 76-5-404.1.
    - (iii) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated sexual abuse of a child if, in conjunction with the offense described in Subsection 76-5-404.1(2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:
  - (a) the actor committed the offense:
    - (i) by the use of a dangerous weapon;
    - (ii) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or
    - (iii) during the course of a kidnapping;
  - (b) the actor caused bodily injury or severe psychological injury to the child during or as a result of the offense;
  - (c) the actor was a stranger to the child or made friends with the child for the purpose of committing the offense;
  - (d) the actor used, showed, or displayed pornography or caused the child to be photographed in a lewd condition during the course of the offense;
  - (e) the actor, prior to sentencing for this offense, was previously convicted of any sexual offense;

- (f) the actor committed the same or similar sexual act upon two or more individuals at the same time or during the same course of conduct;
  - (g) the actor committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;
  - (h) the actor occupied a position of special trust in relation to the child; or
  - (i) the actor encouraged, aided, allowed, or benefited from acts of prostitution or sexual acts by the child with any other individual, sexual performance by the child before any other individual, human trafficking, or human smuggling.
- (3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:
- (a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;
  - (b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or
  - (c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.
- (4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
- (a) for purposes of Subsection (3)(b), 15 years and which may be for life; or
  - (b) for purposes of Subsection (3)(a) or (b):
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
- (5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3)(c).
- (6) Subsection (3)(b) or (3)(c) does not apply if the defendant was younger than 18 years old at the time of the offense.
- (7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 277, 2025 General Session

**76-5-405 Aggravated sexual assault -- Penalty.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits aggravated sexual assault if:
  - (a) in the course of a rape, object rape, forcible sodomy, or forcible sexual abuse, the actor:
    - (i) uses, or threatens another individual with the use of, a dangerous weapon;
    - (ii) compels, or attempts to compel, another individual to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any individual; or
    - (iii) is aided or abetted by one or more persons;
  - (b) in the course of an attempted rape, attempted object rape, or attempted forcible sodomy, the actor:
    - (i) causes serious bodily injury to any individual;
    - (ii) uses, or threatens the individual with the use of a dangerous weapon;

- (iii) attempts to compel the individual to submit to rape, object rape, or forcible sodomy, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any individual; or
- (iv) is aided or abetted by one or more persons; or
- (c) in the course of an attempted forcible sexual abuse, the actor:
  - (i) causes serious bodily injury to any individual;
  - (ii) uses, or threatens the individual with the use of a dangerous weapon;
  - (iii) attempts to compel the individual to submit to forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any individual; or
  - (iv) is aided or abetted by one or more persons.
- (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:
  - (a) for an aggravated sexual assault described in Subsection (2)(a):
    - (i) except as provided in Subsection (3)(a)(ii) or (4)(a), not less than 15 years and which may be for life; or
    - (ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense;
  - (b) for an aggravated sexual assault described in Subsection (2)(b):
    - (i) except as provided in Subsection (3)(b)(ii) or (5)(a), not less than 10 years and which may be for life; or
    - (ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense; or
  - (c) for an aggravated sexual assault described in Subsection (2)(c):
    - (i) except as provided in Subsection (3)(c)(ii) or (6)(a), not less than six years and which may be for life; or
    - (ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense.
- (4)
  - (a) If, when imposing a sentence under Subsection (3)(a)(i), a court finds that a lesser term than the term described in Subsection (3)(a)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:
    - (i) 10 years and which may be for life; or
    - (ii) six years and which may be for life.
  - (b) The provisions of Subsection (4)(a) do not apply when a defendant is sentenced under Subsection (3)(a)(ii).
- (5)
  - (a) If, when imposing a sentence under Subsection (3)(b)(i), a court finds that a lesser term than the term described in Subsection (3)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.
  - (b) The provisions of Subsection (5)(a) do not apply when a defendant is sentenced under Subsection (3)(b)(ii).
- (6)
  - (a) If, when imposing a sentence under Subsection (3)(c)(i), a court finds that a lesser term than the term described in Subsection (3)(c)(i) is in the interests of justice and states the reasons

for this finding on the record, the court may impose a term of imprisonment of not less than three years and which may be for life.

- (b) The provisions of Subsection (6)(a) do not apply when a defendant is sentenced under Subsection (3)(c)(ii).
- (7) Subsections (3)(a)(ii), (3)(b)(ii), and (3)(c)(ii) do not apply if the defendant was younger than 18 years old at the time of the offense.
- (8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Amended by Chapter 181, 2022 General Session

**76-5-406 Sexual offenses against the victim without consent of victim -- Circumstances.**

(1) As used in this section:

- (a) "Health professional" means an individual who is licensed or who holds the individual out to be licensed, or who otherwise provides professional physical or mental health services, diagnosis, treatment, or counseling, including an athletic trainer, physician, osteopathic physician, physician assistant, nurse, dentist, physical therapist, chiropractor, mental health therapist, social service worker, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, psychiatric mental health nurse specialist, or substance abuse counselor.
- (b) "Religious counselor" means a minister, priest, rabbi, bishop, or other recognized member of the clergy.
- (c) "To retaliate" includes threats of physical force, kidnapping, or extortion.

(2) An act of sexual intercourse, rape, attempted rape, rape of a child, attempted rape of a child, object rape, attempted object rape, object rape of a child, attempted object rape of a child, forcible sodomy, attempted forcible sodomy, sodomy on a child, attempted sodomy on a child, forcible sexual abuse, attempted forcible sexual abuse, sexual abuse of a child, attempted sexual abuse of a child, aggravated sexual abuse of a child, attempted aggravated sexual abuse of a child, or simple sexual abuse is without consent of the victim under any of the following circumstances:

- (a) the victim expresses lack of consent through words or conduct;
- (b) the actor overcomes the victim through the actual application of physical force or violence;
- (c) the actor is able to overcome the victim through concealment or by the element of surprise;
- (d)
  - (i) the actor coerces the victim to submit by threatening to retaliate in the immediate future against the victim or any other person, and the victim perceives at the time that the actor has the ability to execute this threat; or
  - (ii) the actor coerces the victim to submit by threatening to retaliate in the future against the victim or any other person, and the victim believes at the time that the actor has the ability to execute this threat;
- (e) the actor knows the victim is unconscious, unaware that the act is occurring, or is physically unable to resist;
- (f) the actor knows or reasonably should know that the victim has a mental disease or defect, which renders the victim unable to:
  - (i) appraise the nature of the act;
  - (ii) resist the act;
  - (iii) understand the possible consequences to the victim's health or safety; or
  - (iv) appraise the nature of the relationship between the actor and the victim;

- (g) the actor knows that the victim participates because the victim erroneously believes that the actor is someone else;
  - (h) the actor intentionally impaired the power of the victim to appraise or control his or her conduct by administering any substance without the victim's knowledge;
  - (i) the victim is younger than 14 years of age;
  - (j) the victim is younger than 18 years of age and at the time of the offense the actor was the victim's parent, stepparent, adoptive parent, or legal guardian or occupied a position of special trust in relation to the victim as defined in Section 76-5-404.1;
  - (k) the victim is 14 years of age or older, but younger than 18 years of age, and the actor is more than three years older than the victim and entices or coerces the victim to submit or participate, under circumstances not amounting to the force or threat required under Subsection (2)(b) or (d); or
  - (l) the actor is a health professional or religious counselor, the act is committed under the guise of providing professional diagnosis, counseling, or treatment, and at the time of the act the victim reasonably believed that the act was for medically or professionally appropriate diagnosis, counseling, or treatment to the extent that resistance by the victim could not reasonably be expected to have been manifested.
- (3) Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent may be initially given but may be withdrawn through words or conduct at any time prior to or during sexual activity.

Amended by Chapter 92, 2020 General Session

**76-5-406.3 Applicability of sentencing provisions.**

A person convicted of a violation of Section 76-5-301.1, child kidnaping; Section 76-5-302, aggravated kidnaping; Section 76-5-402.1, rape of a child; Section 76-5-402.3, object rape of a child; Section 76-5-403.1, sodomy on a child; Section 76-5-404.3, aggravated sexual abuse of a child; or Section 76-5-405, aggravated sexual assault shall be sentenced as follows:

- (1) If the person is sentenced prior to April 29, 1996, he shall be sentenced in accordance with the statutory provisions in effect prior to that date.
- (2) If the person commits the crime and is sentenced on or after April 29, 1996, he shall be punished in accordance with the statutory provisions in effect after April 29, 1996.
- (3) If the person commits the crime prior to April 29, 1996, but is sentenced on or after April 29, 1996, he shall be given the option prior to sentencing to proceed either under the law which was in effect at the time the offense was committed or the law which was in effect at the time of sentencing. If the person refuses to select, the court shall sentence the person in accordance with the law in effect at the time of sentencing. The provisions of Subsections 77-27-9(2)(a) and (b) apply to the sentence of any person who selects under this section to be sentenced in accordance with the law in effect prior to April 29, 1996.

Amended by Chapter 181, 2022 General Session

**76-5-406.5 Circumstances required for probation or suspension of sentence for certain sex offenses against a child.**

- (1) In a case involving a conviction for an attempted violation of Section 76-5-402.1, rape of a child, Section 76-5-402.3, object rape of a child, Section 76-5-403.1, sodomy on a child, or Section 76-5-404.3, aggravated sexual abuse of a child, the court may suspend the execution of the sentence and consider probation to a residential sexual abuse treatment center only if all of

the following circumstances are found by the court to be present and the court in the court's discretion, considering the circumstances of the offense, including the nature, frequency, and duration of the conduct, and considering the best interests of the public and the child victim, finds probation to a residential sexual abuse treatment center to be proper:

- (a) the defendant did not use a weapon, force, violence, substantial duress or menace, or threat of harm, in committing the offense or before or after committing the offense, in an attempt to frighten the child victim or keep the child victim from reporting the offense;
- (b) the defendant did not cause bodily injury to the child victim during or as a result of the offense and did not cause the child victim severe psychological harm;
- (c) the defendant, prior to the offense, had not been convicted of any public offense in Utah or elsewhere involving sexual misconduct in the commission of the offense;
- (d) the defendant did not commit an offense described in this Part 4, Sexual Offenses, against more than one child victim or victim, at the same time, or during the same course of conduct, or previous to or subsequent to the instant offense;
- (e) the defendant did not use, show, or display pornography or create sexually-related photographs or tape recordings in the course of the offense;
- (f) the defendant did not act in concert with another offender during the offense or knowingly commit the offense in the presence of a person other than the victim or with lewd intent to reveal the offense to another;
- (g) the defendant did not encourage, aid, allow, or benefit from any act of prostitution or sexual act by the child victim with any other person or sexual performance by the child victim before any other person;
- (h) the defendant admits the offense of which he has been convicted and has been accepted for mental health treatment in a residential sexual abuse treatment center that has been approved by the Department of Corrections under Subsection (3);
- (i) rehabilitation of the defendant through treatment is probable, based upon evidence provided by a treatment professional who has been approved by the Department of Corrections under Subsection (3) and who has accepted the defendant for treatment;
- (j) prior to being sentenced, the defendant has undergone a complete psychological evaluation conducted by a professional approved by the Department of Corrections and:
  - (i) the professional's opinion is that the defendant is not an exclusive pedophile and does not present an immediate and present danger to the community if released on probation and placed in a residential sexual abuse treatment center; and
  - (ii) the court accepts the opinion of the professional;
- (k) if the offense is committed by a parent, stepparent, adoptive parent, or legal guardian of the child victim, the defendant shall, in addition to establishing all other conditions of this section, establish it is in the child victim's best interest that the defendant not be imprisoned, by presenting evidence provided by a treatment professional who:
  - (i) is treating the child victim and understands he will be treating the family as a whole; or
  - (ii) has assessed the child victim for purposes of treatment as ordered by the court based on a showing of good cause; and
- (l) if probation is imposed, the defendant, as a condition of probation, may not reside in a home where children younger than 18 years old reside for at least one year beginning with the commencement of treatment, and may not again take up residency in a home where children younger than 18 years old reside during the period of probation until allowed to do so by order of the court.

- (2) A term of incarceration of at least 90 days is to be served prior to treatment and continue until the time when bed space is available at a residential sexual abuse treatment center as provided under Subsection (3) and probation is to be imposed for up to a maximum of 10 years.
- (3)
  - (a) The Department of Corrections shall develop qualification criteria for the approval of the sexual abuse treatment programs and professionals under this section. The criteria shall include the screening criteria employed by the department for sexual offenders.
  - (b) The sexual abuse treatment program shall be at least one year in duration, shall be residential, and shall specifically address the sexual conduct for which the defendant was convicted.
- (4) Establishment by the defendant of all the criteria of this section does not mandate the granting under this section of probation or modification of the sentence that would otherwise be imposed by Section 76-3-406 regarding sexual offenses against children. The court has discretion to deny the request based upon its consideration of the circumstances of the offense, including:
  - (a) the nature, frequency, and duration of the conduct;
  - (b) the effects of the conduct on any child victim involved;
  - (c) the best interest of the public and any child victim; and
  - (d) the characteristics of the defendant, including any risk the defendant presents to the public and specifically to children.
- (5) The defendant has the burden to establish by a preponderance of evidence eligibility under all of the criteria of this section.
- (6) If the court finds a defendant granted probation under this section fails to cooperate or succeed in treatment or violates probation to any substantial degree, the sentence previously imposed for the offense shall be immediately executed.
- (7) The court shall enter written findings of fact regarding the conditions established by the defendant that justify the granting of probation under this section.
- (8) In cases involving conviction of any sexual offense against a child other than those offenses provided in Subsection (1), the court shall consider the circumstances described in Subsection (1) as advisory in determining whether or not execution of sentence should be suspended and probation granted. The defendant is not required to satisfy all of those circumstances for eligibility pursuant to this Subsection (8).

Amended by Chapter 193, 2025 General Session

**76-5-407 Consensual conduct in marriage.**

The provisions of this part do not apply to consensual conduct between individuals married to each other.

Amended by Chapter 181, 2022 General Session

**76-5-409 Corroboration of admission by child's statement.**

- (1) Notwithstanding any provision of law requiring corroboration of admissions or confessions, and notwithstanding any prohibition of hearsay evidence, a child's statement indicating in any manner the occurrence of the sexual offense involving the child is sufficient corroboration of the admission or the confession regardless of whether or not the child is available to testify regarding the offense.
- (2) A child, for purposes of Subsection (1), is a person under the age of 14.

Enacted by Chapter 88, 1983 General Session

**76-5-410 Child victim of sexual abuse as competent witness.**

A child victim of sexual abuse under the age of 10 is a competent witness and shall be allowed to testify without prior qualification in any judicial proceeding. The trier of fact shall determine the weight and credibility of the testimony.

Amended by Chapter 74, 1985 General Session

**76-5-412 Custodial sexual relations -- Penalties -- Defenses and limitations.**

- (1)
- (a) As used in this section:
    - (i) "Actor" means:
      - (A) a law enforcement officer, as defined in Section 53-13-103;
      - (B) a correctional officer, as defined in Section 53-13-104;
      - (C) a special function officer, as defined in Section 53-13-105; or
      - (D) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.
    - (ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
    - (iii) "Person in custody" means an individual, either an adult 18 years old or older, or a minor younger than 18 years old, who is:
      - (A) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 26B-5-302 or other medical facility;
      - (B) under correctional supervision, such as at a work release facility or as a parolee or probationer; or
      - (C) under lawful or unlawful arrest, either with or without a warrant.
    - (iv) "Private provider or contractor" means a person that contracts or enters into a memorandum of understanding with a governmental or private entity to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection (2)(b):
    - (i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (4); and
    - (ii)
      - (A) the actor knows that the individual is a person in custody; or
      - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.
  - (b) Acts referred to in Subsection (2)(a) are:
    - (i) having sexual intercourse with a person in custody;
    - (ii) engaging in a sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual; or
    - (iii)

- (A) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body; and
  - (B) intending to cause substantial emotional or bodily pain to any individual.
  - (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
- (a) A violation of Subsection (2) is a third degree felony.
  - (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a second degree felony.
  - (c) If the act committed under Subsection (3) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The offenses referred to in Subsection (2)(a)(i) and Subsection 76-5-412.2(2)(a)(i) are:
- (a) Section 76-5-401, unlawful sexual activity with a minor;
  - (b) Section 76-5-402, rape;
  - (c) Section 76-5-402.1, rape of a child;
  - (d) Section 76-5-402.2, object rape;
  - (e) Section 76-5-402.3, object rape of a child;
  - (f) Section 76-5-403, forcible sodomy;
  - (g) Section 76-5-403.1, sodomy on a child;
  - (h) Section 76-5-404, forcible sexual abuse;
  - (i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child; or
  - (j) Section 76-5-405, aggravated sexual assault.
- (5)
- (a) It is not a defense to the commission of, or the attempt to commit, the offense of custodial sexual relations under Subsection (2) if the person in custody is younger than 18 years old, that the actor:
    - (i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or
    - (ii) was unaware of the true age of the person in custody.
  - (b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).
- (6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 322, 2023 General Session

Amended by Chapter 330, 2023 General Session

### **76-5-412.2 Custodial sexual misconduct -- Penalties -- Defenses.**

- (1)
- (a) As used in this section:
    - (i) "Actor" means the same as that term is defined in Section 76-5-412.
    - (ii) "Female breast" means the same as that term is defined in Section 76-5-401.1.
    - (iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
    - (iv) "Person in custody" means the same as that term is defined in Section 76-5-412.
    - (v) "Private provider or contractor" means the same as that term is defined in Section 76-5-412.

- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) An actor commits custodial sexual misconduct if:
    - (i) the actor commits any of the acts under Subsection (2)(b) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection 76-5-412(4); and
    - (ii)
      - (A) the actor knows that the individual is a person in custody; or
      - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.
  - (b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to another individual or with the intent to arouse or gratify the sexual desire of any individual:
    - (i) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;
    - (ii) touching the female breast of a person in custody; or
    - (iii) otherwise taking indecent liberties with a person in custody.
- (3)
  - (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a third degree felony.
  - (c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4)
  - (a) It is not a defense to the commission of, or attempt to commit, the offense described in Subsection (2) if the person in custody is younger than 18 years old, that the actor:
    - (i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or
    - (ii) was unaware of the true age of the person in custody.
  - (b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).
- (5) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

**76-5-412.4 Custodial solicitation of sexually explicit conduct from a person in custody.**

- (1)
  - (a) As used in this section:
    - (i) "Actor" means the same as that term is defined in Section 76-5-412.
    - (ii) "Person in custody" means an individual who is:
      - (A) 18 years old or older; and
      - (B) otherwise meets the definition of a person in custody as that term is defined in Section 76-5-412.
    - (iii) "Sexually explicit conduct" means actual or simulated:
      - (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

- (B) masturbation;
  - (C) bestiality;
  - (D) sadistic or masochistic activities;
  - (E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;
  - (F) visual depiction of nudity or partial nudity;
  - (G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or
  - (H) the visual depiction of defecation or urination for the purpose of causing sexual arousal of any individual.
- (iv) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits custodial solicitation of sexually explicit conduct from a person in custody if:
- (a) the actor knowingly requests, demands, or otherwise solicits from a person in custody:
    - (i) a photograph, image, live video, or a recording of the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; or
    - (ii) a live demonstration or performance by the person in custody engaging in sexually explicit conduct or simulated sexually explicit conduct; and
  - (b)
    - (i) the actor knows that the individual described in Subsection (2)(a) is a person in custody; or
    - (ii) a reasonable person in the actor's position should have known under the circumstances that the individual described in Subsection (2)(a) was a person in custody.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.
- (5) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).
- (6) This section does not apply to an actor who is acting within the course and scope of the actor's legitimate duties, including documenting photographic evidence.

Enacted by Chapter 253, 2025 General Session

**76-5-413 Custodial sexual relations with youth receiving state services -- Penalties -- Defenses and limitations.**

- (1)
- (a) As used in this section:
    - (i) "Actor" means:
      - (A) an individual employed by the Department of Health and Human Services created in Section 26B-1-201, or an employee of a private provider or contractor; or
      - (B) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.
    - (ii) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
    - (iii) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.
    - (iv) "Private provider or contractor" means a person that contracts with the:
      - (A) department to provide services or functions that are part of the operation of the department; or

- (B) juvenile court to provide services or functions that are part of the operation of the juvenile court.
- (v) "Youth receiving state services" means an individual:
  - (A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who is:
    - (I) in the custody of the department under Section 80-6-703; or
    - (II) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or
  - (B) younger than 25 years old:
    - (I) who is in the custody of the Division of Juvenile Justice and Youth Services, or the Division of Child and Family Services; or
    - (II) whose case is under the jurisdiction of the juvenile court.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
  - (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual relations with a youth receiving state services if:
    - (i) the actor commits any of the acts described in Subsection (2)(b); and
    - (ii)
      - (A) the actor knows that the individual is a youth receiving state services; or
      - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.
  - (b) Acts referred to in Subsection (2)(a)(i) are:
    - (i) having sexual intercourse with a youth receiving state services;
    - (ii) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual; or
    - (iii)
      - (A) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body; and
      - (B) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.
  - (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).
- (3)
  - (a) A violation of Subsection (2) is a third degree felony.
  - (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a second degree felony.
  - (c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The offenses referred to in Subsection (2) are:
  - (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
  - (b) rape, in violation of Section 76-5-402;
  - (c) rape of a child, in violation of Section 76-5-402.1;
  - (d) object rape, in violation of Section 76-5-402.2;
  - (e) object rape of a child, in violation of Section 76-5-402.3;
  - (f) forcible sodomy, in violation of Section 76-5-403;
  - (g) sodomy on a child, in violation of Section 76-5-403.1;
  - (h) forcible sexual abuse, in violation of Section 76-5-404;

- (i) sexual abuse of a child, in violation of Section 76-5-404.1;
  - (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
  - (k) aggravated sexual assault, in violation of Section 76-5-405; or
  - (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
- (5)
- (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:
    - (i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or
    - (ii) was unaware of the true age of the youth receiving state services.
  - (b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).
- (6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 88, 2025 General Session

**76-5-413.2 Custodial sexual misconduct with a youth receiving state services -- Penalties -- Defenses and limitations.**

- (1)
- (a) As used in this section:
    - (i) "Actor" means the same as that term is defined in Section 76-5-413.
    - (ii) "Department" means the same as that term is defined in Section 76-5-413.
    - (iii) "Female breast" means the same as that term is defined in Section 76-5-401.1.
    - (iv) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.
    - (v) "Juvenile court" means the same as that term is defined in Section 76-5-413.
    - (vi) "Private provider or contractor" means the same as that term is defined in Section 76-5-413.
    - (vii) "Youth receiving state services" means the same as that term is defined in Section 76-5-413.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2)
- (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual misconduct with a youth receiving state services if:
    - (i) the actor commits any of the acts described in Subsection (2)(b); and
    - (ii)
      - (A) the actor knows that the individual is a youth receiving state services; or
      - (B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.
  - (b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:
    - (i) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;
    - (ii) touching the female breast of a youth receiving state services; or
    - (iii) otherwise taking indecent liberties with a youth receiving state services.
  - (c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

- (3)
  - (a) A violation of Subsection (2) is a class A misdemeanor.
  - (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a third degree felony.
  - (c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- (4) The offenses referred to in Subsection (2) are:
  - (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
  - (b) rape, in violation of Section 76-5-402;
  - (c) rape of a child, in violation of Section 76-5-402.1;
  - (d) object rape, in violation of Section 76-5-402.2;
  - (e) object rape of a child, in violation of Section 76-5-402.3;
  - (f) forcible sodomy, in violation of Section 76-5-403;
  - (g) sodomy on a child, in violation of Section 76-5-403.1;
  - (h) forcible sexual abuse, in violation of Section 76-5-404;
  - (i) sexual abuse of a child, in violation of Section 76-5-404.1;
  - (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
  - (k) aggravated sexual assault, in violation of Section 76-5-405; or
  - (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
- (5)
  - (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:
    - (i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or
    - (ii) was unaware of the true age of the youth receiving state services.
  - (b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).
- (6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Amended by Chapter 223, 2025 General Session

Amended by Chapter 320, 2025 General Session

**76-5-415 Educator's license subject to action for violation of this part.**

Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, by an educator as defined in Section 53E-6-102, is grounds under Section 53E-6-604 for disciplinary action against the educator, including revocation of the educator's license.

Amended by Chapter 173, 2025 General Session

**76-5-416.2 Unlawful kissing of a child.**

- (1)
  - (a) As used in this section, "child" means an individual who is under 14 years old.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful kissing of a child if the actor:

- (a) is 18 years old or older; and
- (b) intentionally or knowingly:
  - (i) kisses a child on the child's mouth; and
  - (ii) penetrates the minor's mouth with the actor's tongue.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) Any penetration, however slight, of the mouth of the child by the actor's tongue is sufficient to constitute a violation of this section.

Enacted by Chapter 140, 2024 General Session

**76-5-416.4 Unlawful kissing of a minor.**

- (1)
  - (a) As used in this section, "minor" means an individual who is 14 years old or older but younger than 18 years old.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful kissing of a minor if the actor:
  - (a) intentionally or knowingly:
    - (i) kisses a minor on the minor's mouth; and
    - (ii) penetrates the minor's mouth with the actor's tongue; and
  - (b) is older than the minor by 10 years or more.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) Any penetration, however slight, of the mouth of the minor by the actor's tongue is sufficient to constitute a violation of this section.

Enacted by Chapter 140, 2024 General Session

**76-5-417 Enticing a minor to engage in sexual activity.**

- (1)
  - (a) As used in this section:
    - (i) "Minor" means an individual who is under 18 years old.
    - (ii) "Electronic communication" means the same as that term is defined in Section 76-12-201.
    - (iii) "Electronic communication device" means the same as that term is defined in Section 76-12-201.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits enticing a minor to engage in sexual activity if the actor knowingly:
  - (a) uses an electronic communication or an electronic communication device to:
    - (i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person who the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law;
    - (ii) communicate with any individual with the intent to solicit, seduce, lure, or entice a minor, or attempt to solicit, seduce, lure, or entice a minor, to engage in sexual activity that is a violation of state criminal law; or
  - (iii)
    - (A) initiate contact with a minor or a person the actor believes to be a minor; and
    - (B) subsequent to the action described in Subsection (2)(a)(iii)(A), by any electronic or written means, solicits, seduces, lures, or entices the minor, or attempts to solicit, seduce, lure, or entice the minor, or a person the actor believes to be the minor, to engage in sexual activity that is a violation of state criminal law; or

- (b) develops a relationship of trust with a minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice the minor, or attempt to solicit, seduce, lure, or entice the minor, to engage in sexual activity that is a violation of state criminal law.
- (3) A violation of Subsection (2) is punishable as follows:
- (a) enticement to engage in sexual activity that would be a first degree felony for the actor is a:
    - (i) second degree felony upon the first conviction for violation of this Subsection (3)(a); and
    - (ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (3)(a);
  - (b) enticement to engage in sexual activity that would be a second degree felony for the actor is a third degree felony;
  - (c) enticement to engage in sexual activity that would be a third degree felony for the actor is a class A misdemeanor;
  - (d) enticement to engage in sexual activity that would be a class A misdemeanor for the actor is a class B misdemeanor; and
  - (e) enticement to engage in sexual activity that would be a class B misdemeanor for the actor is a class C misdemeanor.
- (4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.
- (5)
- (a) When an actor who commits a felony violation of this section has previously been convicted of an offense described in Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:
    - (i) grant probation;
    - (ii) suspend the execution or imposition of the sentence;
    - (iii) enter a judgment for a lower category of offense; or
    - (iv) order hospitalization.
  - (b) The offenses referred to in Subsection (5)(a) are:
    - (i) child kidnapping as described in Section 76-5-301.1;
    - (ii) human trafficking of a child for labor as described in Section 76-5-308.5;
    - (iii) human trafficking of a child for commercial sexual exploitation as described in Section 76-5-308.6;
    - (iv) rape as described in Section 76-5-402;
    - (v) rape of a child as described in Section 76-5-402.1;
    - (vi) object rape as described in Section 76-5-402.2;
    - (vii) object rape of a child as described in Section 76-5-402.3;
    - (viii) forcible sodomy as described in Section 76-5-403;
    - (ix) sodomy on a child as described in Section 76-5-403.1;
    - (x) forcible sexual abuse as described in Section 76-5-404;
    - (xi) sexual abuse of a child as described in Section 76-5-404.1;
    - (xii) aggravated sexual abuse of a child as described in Section 76-5-404.3;
    - (xiii) aggravated sexual assault as described in Section 76-5-405;
    - (xiv) enticing a minor to engage in sexual activity as described in Section 76-5-417;
    - (xv) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through (xiv); or
    - (xvi) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xv).

Amended by Chapter 247, 2026 General Session

**76-5-418 Sexual battery.**

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits sexual battery if, under circumstances not amounting to an offense described in Subsection (4):
  - (a) the actor intentionally touches, whether or not through clothing:
    - (i) the anus, buttocks, or any part of the genitals of another individual; or
    - (ii) the breast of a female individual; and
  - (b) the actor's conduct is under circumstances that the actor knows or should know will likely cause affront or alarm to the individual touched.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) The offenses referred to in Subsection (2) are:
  - (a) rape under Section 76-5-402;
  - (b) rape of a child under Section 76-5-402.1;
  - (c) object rape under Section 76-5-402.2;
  - (d) object rape of a child under Section 76-5-402.3;
  - (e) forcible sodomy under Section 76-5-403;
  - (f) sodomy on a child under Section 76-5-403.1;
  - (g) forcible sexual abuse under Section 76-5-404;
  - (h) sexual abuse of a child under Section 76-5-404.1;
  - (i) aggravated sexual abuse of a child under Section 76-5-404.3;
  - (j) aggravated sexual assault under Section 76-5-405; and
  - (k) an attempt to commit an offense under this Subsection (4).

Amended by Chapter 26, 2026 General Session

**76-5-419 Lewdness.**

- (1)
  - (a) As used in this section:
    - (i) "Common area of a privacy space" means any area of a privacy space other than:
      - (A) a toilet stall with a closed door;
      - (B) immediately in front of a urinal during use; or
      - (C) a shower stall with a closed door or other closed covering.
    - (ii) "Privacy space" means the same as that term is defined in Section 76-12-309.
    - (iii) "Sex-designated" means the same as that term is defined in Section 76-12-309.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits lewdness if:
  - (a) the actor performs:
    - (i) an act of sexual intercourse or sodomy;
    - (ii) an act exposing the actor's:
      - (A) genitals;
      - (B) female breast below the top of the areola if the actor is female;
      - (C) buttocks, anus, or pubic area;
    - (iii) masturbates; or
    - (iv) any other act of lewdness; and

- (b) an action described in Subsection (2)(a) is undertaken:
  - (i) in a public place; or
  - (ii) under circumstances which the actor should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older.
- (3)
  - (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.
  - (b) A violation of Subsection (2) is a third degree felony if at the time of the violation:
    - (i) the actor is a sex offender as defined in Section 57-8a-102;
    - (ii) the actor has previously been convicted two or more times of a violation of Subsection (2);
    - (iii) the actor has previously been convicted of:
      - (A) a violation of Subsection (2); and
      - (B) a violation of Section 76-5-420;
    - (iv) the actor also commits the offense of:
      - (A) criminal trespass resulting from unlawfully entering a sex-designated changing room as described in Subsection 76-6-206(2)(d);
      - (B) lewdness involving a child as described in Section 76-5-420;
      - (C) voyeurism as described in Section 76-12-306;
      - (D) recorded or photographed voyeurism as described in Section 76-12-307;
      - (E) distribution of images obtained through voyeurism as described in Section 76-12-308; or
      - (F) loitering in a privacy space as described in Section 76-12-309; or
    - (v) the actor is in a sex-designated privacy space, that is not designated for individuals of the actor's sex.
- (4) The offenses referred to in Subsection (2) are:
  - (a) unlawful sexual conduct with a 16 or 17 year old as described in Section 76-5-401.2;
  - (b) rape as described in Section 76-5-402;
  - (c) object rape as described in Section 76-5-402.2;
  - (d) forcible sodomy as described in Section 76-5-403;
  - (e) forcible sexual abuse as described in Section 76-5-404;
  - (f) sexual abuse of a child as described in Section 76-5-404.1;
  - (g) aggravated sexual assault as described in Section 76-5-405;
  - (h) custodial sexual relations as described in Section 76-5-412;
  - (i) custodial sexual misconduct as described in Section 76-5-412.2;
  - (j) custodial sexual relations with youth receiving state services as described in Section 76-5-413;
  - (k) custodial sexual misconduct with youth receiving state services as described in Section 76-5-413.2; or
  - (l) an attempt to commit an offense described in Subsection (4)(a) through (k).
- (5)
  - (a) As described in Subsection 53-29-202(4), for purposes of Subsection (3), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
  - (b) Subsection (5)(a) also applies if the charge under Subsection (3) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (6)
  - (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes lewdness.

- (b) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness.
- (7) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Renumbered and Amended by Chapter 173, 2025 General Session

**76-5-420 Lewdness involving a child.**

- (1)
  - (a) As used in this section:
    - (i) "Child" means an individual younger than 14 years old.
    - (ii) "Common area of a privacy space" means the same as that term is defined in Section 76-5-419.
    - (iii) "In the presence of" includes within visual contact through an electronic device.
    - (iv) "Privacy space" means the same as that term is defined in Section 76-12-309.
    - (v) "Sex-designated" means the same as that term is defined in Section 76-12-309.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits lewdness involving a child if:
  - (a) the actor, under circumstances not amounting to an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child:
    - (i) performs an act of sexual intercourse or sodomy;
    - (ii) exposes the actor's genitals, female breast below the top of the areola, buttocks, anus, or pubic area:
      - (A) in a public place; or
      - (B) in a private place under circumstances the actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child; or
    - (iii) masturbates;
  - (b) the actor is 18 years old or older and, under circumstances not amounting to an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child:
    - (i) simulates masturbation;
    - (ii) performs an act of simulated intercourse or sodomy;
    - (iii) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered;
    - (iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex or how the breast was developed or created; or
    - (v) involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of:
      - (A) simulated intercourse or sodomy; or
      - (B) simulated masturbation;
  - (c) the actor, under circumstances not amounting to sexual exploitation of a minor under Section 76-5b-201 or aggravated sexual exploitation of a minor under Section 76-5b-201.1, intentionally or knowingly causes a child to expose the child's genitals, anus, or breast, if

female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or

(d) the actor performs any other act of lewdness.

- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.
- (b) A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:
- (i) is a sex offender as described in Subsection 53-29-202(2)(b) and the offense that the actor committed that resulted in the actor being a sex offender was committed against an individual younger than 18 years old;
  - (ii) previously has been convicted of a violation of this section;
  - (iii) commits the violation of Subsection (2) while also committing the offense of:
    - (A) lewdness as described in Section 76-5-419;
    - (B) criminal trespass resulting from unlawfully entering a sex-designated changing room as described in Subsection 76-6-206(2)(d);
    - (C) voyeurism as described in Section 76-12-306;
    - (D) recorded or photographed voyeurism as described in Section 76-12-307;
    - (E) distribution of images obtained through voyeurism as described in Section 76-12-308; or
    - (F) loitering in a privacy space as described in Section 76-12-309; or
  - (iv) is in a sex-designated privacy space, that is not designated for individuals of the actor's sex.
- (4) The offenses referred to in Subsection (2) are:
- (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;
  - (d) sexual abuse of a child as described in Section 76-5-404.1;
  - (e) aggravated sexual abuse of a child as described in Section 76-5-404.3; or
  - (f) an attempt to commit an offense described in Subsections (4)(a) through (e).
- (5)
- (a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes a violation of Subsection (2).
  - (b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.

Renumbered and Amended by Chapter 173, 2025 General Session

**76-5-421 Indecent exposure of another individual.**

- (1)
- (a) As used in this section:
    - (i) "First responder" means the same as that term is defined in Section 34A-2-102.
    - (ii) "Health care professional" means the same as that term is defined in Section 53-3-207.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits indecent exposure of another individual if the actor exposes in a public place, without the individual's consent, the individual's:

- (a) undergarments intended to cover the individual's genitals, breasts if the individual is female, buttocks, anus, or pubic area; or
  - (b) genitals, breast below the top of the areola if the individual is female, buttocks, anus, or pubic area.
- (3)
- (a) A violation of Subsection (2)(a) is a class C misdemeanor.
  - (b) Except as provided in Subsection (3)(c), a violation of Subsection (2)(b) is a class B misdemeanor.
  - (c) A violation of Subsection (2)(b) is a class A misdemeanor if the actor committed the violation in the presence of an individual who is younger than 14 years old.
- (4) An actor under the age of 18 years old may not be referred to the juvenile court or prosecuting attorney under this section unless the actor has previously received a written warning from a law enforcement officer for conduct described in Subsection (2).
- (5) This section does not apply to a first responder or health care professional who removes the clothing of another individual during an emergency to provide medical care to that individual resulting in the exposure of that individual described in Subsection (2).

Enacted by Chapter 204, 2025 General Session

**76-5-422 Sexual relations with an adult high school student.**

- (1)
- (a) As used in this section:
    - (i) "Actor" means an individual who is 21 years old or older.
    - (ii) "Adult high school student" means an individual who is 18 to 21 years old and enrolled at a high school.
    - (iii) "High school" means a district, charter, or private school that is comprised of grade 9, 10, 11, or 12.
    - (iv) "Position of special trust" means the following positions in a high school:
      - (A) a teacher;
      - (B) an administrator;
      - (C) a coach;
      - (D) a counselor; or
      - (E) an individual other than an individual listed in Subsections (1)(a)(iv)(A) through (1)(a)(iv)(D) who occupies a position of authority that enables the individual to exercise undue influence over an adult high school student.
    - (v) "Sexual intercourse" means any penetration, however slight, of:
      - (A) the genitals or anus of an individual by another individual using any body part, object, or substance; or
      - (B) the mouth of an individual by another individual's genitals.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits sexual relations with an adult high school student if the actor:
- (a)
    - (i) has sexual intercourse with an adult high school student; or
    - (ii) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:
      - (A) touches the anus, buttocks, pubic area, or any part of the genitals of an adult high school student;
      - (B) touches the breast of a female adult high school student; or

- (C) otherwise takes indecent liberties with an adult high school student;
  - (b) occupies a position of special trust in relation to the adult high school student described in Subsection (2)(a); and
  - (c) knows or should have known that the individual with which the actor committed the acts described in Subsection (2)(a) was an adult high school student.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).
- (5) Consent of an adult high school student to an act described in Subsection (2) is not a defense to prosecution under this section.

Enacted by Chapter 204, 2025 General Session

**76-5-423 Unlawful sexual activity with a child using virtual reality.**

- (1)
- (a) As used in this section:
    - (i) "Avatar" means a three-dimensional character that represents a human user in a virtual reality environment.
    - (ii) "Child" means an individual who is younger than 14 years old.
    - (iii) "Haptic technology" means technology that can create an experience of touch by applying force, vibration, or motion to the human user.
    - (iv) "Virtual reality" means a three-dimensional environment in which the human user is fully immersed in a computer-generated simulation through the use of an avatar, regardless of whether the human user is using haptic technology.
  - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful sexual activity with a child using virtual reality if the actor:
- (a) is 18 years old or older;
  - (b) knows that the human user of an avatar is a child; and
  - (c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the child's avatar involving:
    - (i) the genitals, pubic area, or anus of the actor's avatar or the child's avatar; and
    - (ii) the mouth, buttocks, pubic area, genitals, or anus of either the actor's avatar or the child's avatar.
- (3)
- (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.
  - (b) A violation of Subsection (2) is a class A misdemeanor if the actor is less than 10 years older than the child.
- (4) Consent of the child to engage in the sexual activity is not a defense to a violation of Subsection (2).

Enacted by Chapter 253, 2025 General Session

**76-5-424 Unlawful sexual activity with a minor using virtual reality.**

- (1)
- (a) As used in this section:
    - (i) "Avatar" means the same as that term is defined in Section 76-5-423.
    - (ii) "Haptic technology" means the same as that term is defined in Section 76-5-423.

- (iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.
- (iv) "Virtual reality" means the same as that term is defined in Section 76-5-423.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits unlawful sexual activity with a minor using virtual reality if the actor:
  - (a) knows that the human user of an avatar is a minor;
  - (b) is older than the minor by 10 years or more; and
  - (c) for the purpose of arousing or gratifying the sexual desire of any individual, intentionally uses the actor's avatar to engage in sexual activity or simulated sexual activity with the minor's avatar involving:
    - (i) the genitals, pubic area, or anus of the actor's avatar or the minor's avatar; and
    - (ii) the mouth, buttocks, pubic area, genitals, or anus of either the actor's avatar or the minor's avatar.
- (3) A violation of Subsection (2) is a class A misdemeanor.
- (4) Consent of the minor to engage in the sexual activity is not a defense to a violation of Subsection (2).

Enacted by Chapter 253, 2025 General Session

## **Part 7**

### **Genital Mutilation**

#### **76-5-701 Female genital mutilation definition.**

- (1) As used in this part, "female genital mutilation" means any procedure that involves partial or total removal of the external female genitalia, or any harmful procedure to the female genitalia, including:
  - (a) clitoridectomy;
  - (b) the partial or total removal of the clitoris or the prepuce;
  - (c) excision or the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora;
  - (d) infibulation or the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris;
  - (e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or
  - (f) any other actions intended to alter the structure or function of the female genitalia for non-medical reasons.
- (2) Female genital mutilation is considered a form of child abuse for mandatory reporting under Section 80-2-602.

Amended by Chapter 181, 2022 General Session

Amended by Chapter 335, 2022 General Session

#### **76-5-702 Prohibition on female genital mutilation -- Exceptions.**

- (1) Terms defined in Sections 76-1-101.5 and 76-5-701 apply to this section.
- (2) An actor commits female genital mutilation if the actor:
  - (a) performs a procedure described in Section 76-5-701 on a female under 18 years old;

- (b) gives permission for or permits a procedure described in Section 76-5-701 to be performed on a female under 18 years old; or
  - (c) removes or causes, permits, or facilitates the removal of a female under 18 years old from this state for the purpose of facilitating the performance of a procedure described in Section 76-5-701 on the female.
- (3) A violation of Subsection (2) is a second degree felony.
- (4) It is not a defense to this section that the conduct described in Section 76-5-701 is required as a matter of religion, custom, ritual, or standard practice, or that the individual on whom it is performed or the individual's parent or guardian consented to the procedure.
- (5) A surgical procedure is not a violation of this section if the procedure is performed by a physician licensed as a medical professional in the place it is performed and the procedure is:
- (a) medically advisable;
  - (b) necessary to preserve or protect the physical health of the individual on whom it is performed; or
  - (c) requested for sex reassignment surgery by the individual on whom it is performed.
- (6) The license of any medical professional licensed in accordance with Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act, who is convicted of a violation of this section shall be permanently revoked by the appropriate licensing board.

Amended by Chapter 181, 2022 General Session

**76-5-704 Civil cause of action.**

- (1) An individual upon whom female genital mutilation was performed may bring a civil action in any court of competent jurisdiction for female genital mutilation any time within 10 years of:
- (a) the procedure being performed; or
  - (b) the victim's 18th birthday.
- (2) The court may award actual, compensatory, and punitive damages, and any other appropriate relief.
- (3) A prevailing plaintiff shall be awarded attorney fees and costs.
- (4) Treble damages may be awarded if the plaintiff proves the defendant's acts were willful and malicious.
- (5) If a health care provider is charged and prosecuted for a violation of Section 76-5-702, Section 78B-3-416 may not apply to an action against the health care provider under this section.

Amended by Chapter 181, 2022 General Session

**Part 8**  
**Offenses Committed Against the Deceased**

**76-5-801 Definitions.**

As used in this part, "ancient human remains" means the same as that term is defined in Section 9-8a-302.

Enacted by Chapter 173, 2025 General Session

**76-5-802 Abuse or desecration of a dead human body.**

- (1)
  - (a) As used in this section, "sexual penetration" means the penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of a dead human body.
  - (b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- (2) An actor commits abuse or desecration of a dead human body if the actor intentionally and unlawfully:
  - (a) disturbs, moves, removes, conceals, or destroys a dead human body or any part of the dead human body;
  - (b) disinters a buried or otherwise interred dead human body, without authority of a court order;
  - (c) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or
  - (d) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body.
- (3) A violation of Subsection (2) is a third degree felony.
- (4) An actor does not violate this section if when the actor directs or carries out procedures regarding a dead human body, the actor complies with:
  - (a) Title 9, Chapter 8a, Part 3, Antiquities;
  - (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
  - (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
  - (d) Section 53H-4-203;
  - (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
  - (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.
- (5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Amended by Chapter 9, 2025 Special Session 1

**76-5-803 Failure to report the finding of a dead human body.**

- (1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- (2) An actor commits failure to report the finding of a dead human body if the actor:
  - (a) finds a dead human body; and
  - (b) intentionally fails to report the finding of the dead human body to a local law enforcement agency.
- (3) A violation of Subsection (2) is a class B misdemeanor.
- (4) An actor does not violate this section if when the actor directs or carries out procedures regarding a dead human body, the actor complies with:
  - (a) Title 9, Chapter 8a, Part 3, Antiquities;
  - (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
  - (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
  - (d) Section 53H-4-203;
  - (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
  - (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Amended by Chapter 9, 2025 Special Session 1