

Senator LeRay McAllister proposes to substitute the following bill:

1 AGE OF VICTIM FOR UNLAWFUL

2 SEXUAL CONDUCT

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 Sponsor: LeRay McAllister

6 AN ACT RELATING TO THE CRIMINAL CODE; ESTABLISHING THE CRIME OF  
7 UNLAWFUL SEXUAL CONDUCT WITH A 16 OR 17 YEAR OLD.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 ENACTS:

10 76-5-401.2, Utah Code Annotated 1953

11 *Be it enacted by the Legislature of the state of Utah:*

12 Section 1. Section 76-5-401.2 is enacted to read:

13 **76-5-401.2. Unlawful sexual conduct with a 16 or 17 year old.**

14 (1) For purposes of this section "minor" means a person who is 16 years of age or older,  
15 but younger than 18 years of age, at the time the sexual conduct described in this section occurred.

16 (2) A person commits unlawful sexual conduct with a minor if, under circumstances not  
17 amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section  
18 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in  
19 violation of Section 76-5-405, the actor  $\hat{h}$  , WHO IS TEN OR MORE YEARS OLDER THAN THE MINOR

19a AT THE TIME OF THE SEXUAL CONDUCT  $\hat{h}$  :

20 (a) has sexual intercourse with the minor;

21 (b) engages in any sexual act with the minor involving the genitals of one person and the  
22 mouth or anus of another person, regardless of the sex of either participant; or

23 (c) causes the penetration, however slight, of the genital or anal opening of the minor by  
24 any foreign object, substance, instrument, or device, including a part of the human body, with the  
25 intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or

1 gratify the sexual desire of any person, regardless of the sex of any participant.

2 (3) A violation of Subsection (2) is a third degree felony. <sup>h</sup> **[It is a defense to prosecution**

3 **under this section that the defendant has established by a preponderance of the evidence that, at**

4 **the time the sexual conduct occurred, the defendant was less than 10 years older than the minor.]** <sup>h</sup>