

Senator LeRay McAllister proposes to substitute the following bill:

AGE OF VICTIM FOR UNLAWFUL

SEXUAL CONDUCT

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: LeRay McAllister

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

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

ENACTS:

76-5-401.2, Utah Code Annotated 1953

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

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

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

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

(2) A person commits unlawful sexual conduct with a minor if, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in violation of Section 76-5-405, the actor:

(a) has sexual intercourse with the minor;

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

(c) 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, with the 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. 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.