

Senator D. Edgar Allen proposes to substitute the following bill:

VENUE OF ACTION

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Edgar Allen

AN ACT RELATING TO CRIMINAL LAW; AMENDING VENUE OF PROSECUTION PROVISIONS REGARDING CHILD ABUSE CASES; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

76-5-109, as last amended by Chapter 81, Laws of Utah 1998

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

Section 1. Section **76-5-109** is amended to read:

76-5-109. Child abuse.

(1) As used in this section:

(a) "Child" means a human being who is 17 years of age or less.

(b) "Child abuse" means any offense described in Subsection (2) or (3), or in Section 76-5-109.1.

(c) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:

(i) a bruise or other contusion of the skin;

(ii) a minor laceration or abrasion;

(iii) failure to thrive or malnutrition; or

(iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(d).

(d) "Serious physical injury" means any physical injury or set of injuries which seriously

26 impairs the child's health, or which involves physical torture or causes serious emotional harm to
27 the child, or which involves a substantial risk of death to the child, including:

- 28 (i) fracture of any bone or bones;
- 29 (ii) intracranial bleeding, swelling or contusion of the brain, whether caused by blows,
30 shaking, or causing the child's head to impact with an object or surface;
- 31 (iii) any burn, including burns inflicted by hot water, or those caused by placing a hot
32 object upon the skin or body of the child;
- 33 (iv) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;
- 34 (v) any combination of two or more physical injuries inflicted by the same person, either
35 at the same time or on different occasions;
- 36 (vi) any damage to internal organs of the body;
- 37 (vii) any conduct toward a child which results in severe emotional harm, severe
38 developmental delay or retardation, or severe impairment of the child's ability to function;
- 39 (viii) any injury which creates a permanent disfigurement or protracted loss or impairment
40 of the function of a bodily member, limb, or organ;
- 41 (ix) any conduct which causes a child to cease breathing, even if resuscitation is successful
42 following the conduct; or
- 43 (x) any conduct which results in starvation or failure to thrive or malnutrition that
44 jeopardizes the child's life.

45 (2) Any person who inflicts upon a child serious physical injury or, having the care or
46 custody of such child, causes or permits another to inflict serious physical injury upon a child is
47 guilty of an offense as follows:

- 48 (a) if done intentionally or knowingly, the offense is a felony of the second degree;
- 49 (b) if done recklessly, the offense is a felony of the third degree; or
- 50 (c) if done with criminal negligence, the offense is a class A misdemeanor.

51 (3) Any person who inflicts upon a child physical injury or, having the care or custody of
52 such child, causes or permits another to inflict physical injury upon a child is guilty of an offense
53 as follows:

- 54 (a) if done intentionally or knowingly, the offense is a class A misdemeanor;
- 55 (b) if done recklessly, the offense is a class B misdemeanor; or
- 56 (c) if done with criminal negligence, the offense is a class C misdemeanor.

57 ~~[(4) Criminal actions under this section may be prosecuted in the county or district where~~
58 ~~the offense is alleged to have been committed, where the existence of the offense is discovered,~~
59 ~~where the victim resides, or where the defendant resides.]~~

60 [(5)] (4) A parent or legal guardian who provides a child with treatment by spiritual means
61 alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of
62 an established church or religious denomination of which the parent or legal guardian is a member
63 or adherent shall not, for that reason alone, be deemed to have committed an offense under this
64 section.

65 Section 2. **Effective date.**

66 If approved by two-thirds of all the members elected to each house, this act takes effect
67 upon approval by the governor, or the day following the constitutional time limit of Utah
68 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
69 date of veto override.