

**CRIMINAL OFFENSE AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Gregory S. Bell**

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**LONG TITLE**

**General Description:**

This bill repeals the criminal provision of absconding and amends related provisions.

**Highlighted Provisions:**

This bill:

- ▶ repeals the offense of absconding and amends criminal code and juvenile offender provisions affected by this repealer.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

**Utah Code Sections Affected:**

AMENDS:

**62A-7-106 (Superseded 07/01/04)**, as last amended by Chapter 203, Laws of Utah 2000

**62A-7-106 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

**76-8-306**, as last amended by Chapter 179, Laws of Utah 2003

REPEALS:

**76-8-309.5**, as last amended by Chapter 203, Laws of Utah 2000

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

Section 1. Section **62A-7-106 (Superseded 07/01/04)** is amended to read:

**62A-7-106 (Superseded 07/01/04). Aiding or concealing youth offender -- Trespass -- Criminal penalties.**

**S.B. 158**

**Enrolled Copy**

(1) A person who commits any of the following offenses is guilty of a class A misdemeanor:

(a) entering, or attempting to enter, a building or enclosure appropriated to the use of youth offenders, without permission;

(b) entering any premises belonging to a secure facility and committing or attempting to commit a trespass or depredation on those premises; or

(c) willfully annoying or disturbing the peace and quiet of a secure facility or of a youth offender in a secure facility.

(2) A person is guilty of a third degree felony who:

(a) knowingly harbors or conceals a youth offender who has:

(i) escaped from a secure facility; or

(ii) absconded from:

(A) a facility or supervision~~[-as these offenses are defined in Subsections 76-8-309.5(1) and (2)]~~; or

(B) supervision of the Division of Youth Corrections; or

(b) willfully aided or assisted a youth offender who has been lawfully committed to a secure facility in escaping or attempting to escape from that facility.

(3) As used in this section:

(a) a youth offender absconds from a facility when he:

(i) leaves the facility without permission; or

(ii) fails to return at a prescribed time.

(b) A youth offender absconds from supervision when he:

(i) changes his residence from the residence that he reported as his correct address to another residence, without notifying the Division of Juvenile Justice Services or obtaining permission; or

(ii) for the purpose of avoiding supervision:

(A) hides at a different location from his reported residence; or

(B) leaves his reported residence.

Section 2. Section **62A-7-106 (Effective 07/01/04)** is amended to read:

**62A-7-106 (Effective 07/01/04). Aiding or concealing youth offender -- Trespass -- Criminal penalties.**

(1) A person who commits any of the following offenses is guilty of a class A misdemeanor:

(a) entering, or attempting to enter, a building or enclosure appropriated to the use of youth offenders, without permission;

(b) entering any premises belonging to a secure facility and committing or attempting to commit a trespass or depredation on those premises; or

(c) willfully annoying or disturbing the peace and quiet of a secure facility or of a youth offender in a secure facility.

(2) A person is guilty of a third degree felony who:

(a) knowingly harbors or conceals a youth offender who has:

(i) escaped from a secure facility; or

(ii) absconded from:

(A) a facility or supervision~~], as these offenses are defined in Subsections 76-8-309.5(1) and (2)~~; or

(B) supervision of the Division of Juvenile Justice Services; or

(b) willfully aided or assisted a youth offender who has been lawfully committed to a secure facility in escaping or attempting to escape from that facility.

(3) As used in this section:

(a) a youth offender absconds from a facility when he:

(i) leaves the facility without permission; or

(ii) fails to return at a prescribed time.

(b) A youth offender absconds from supervision when he:

(i) changes his residence from the residence that he reported as his correct address to another residence, without notifying the Division of Juvenile Justice Services or obtaining permission; or

(ii) for the purpose of avoiding supervision:

(A) hides at a different location from his reported residence; or

(B) leaves his reported residence.

Section 3. Section **76-8-306** is amended to read:

**76-8-306. Obstruction of justice -- Elements -- Penalties -- Exceptions.**

(1) An actor commits obstruction of justice if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes a criminal offense:

(a) provides any person with a weapon;

(b) prevents by force, intimidation, or deception, any person from performing any act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;

(c) alters, destroys, conceals, or removes any item or other thing;

(d) makes, presents, or uses any item or thing known by the actor to be false;

(e) harbors or conceals a person;

(f) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;

(g) warns any person of impending discovery or apprehension;

(h) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information; or

(i) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation.

(2) (a) As used in this section, "conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section, and includes:

(i) any violation of a criminal statute or ordinance of this state, its political subdivisions, any other state, or any district, possession, or territory of the United States; and

(ii) conduct committed by a juvenile which would be a crime if committed by an adult.

(b) A violation of a criminal statute that is committed in another state, or any district,

possession, or territory of the United States, is a:

(i) capital felony if the penalty provided includes death or life imprisonment without parole;

(ii) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;

(iii) a second degree felony if the penalty provided exceeds five years;

(iv) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; and

(v) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.

(3) The penalties for obstruction of justice are:

(a) a second degree felony if the conduct which constitutes an offense would be a capital felony or first degree felony;

(b) a third degree felony if:

(i) the conduct that constitutes an offense would be a second or third degree felony and the actor violates Subsection (1)(b), (c), (d), (e), or (f);

(ii) the conduct that constitutes an offense would be any offense other than a capital or first degree felony and the actor violates Subsection (1)(a); or

(iii) the obstruction of justice is presented or committed before a court of law; or

(c) a class A misdemeanor for any violation of this section that is not enumerated under Subsection (3)(a) or (b).

(4) It is not a defense that the actor was unaware of the level of penalty for the conduct constituting an offense.

(5) Subsection (1)(e) does not apply to harboring a youth offender, which is governed by Section 62A-7-106.

(6) Subsection (1)(b) does not apply to:

(a) tampering with a juror, which is governed by Section 76-8-508.5;

(b) influencing, impeding, or retaliating against a judge or member of the Board of

Pardons and Parole, which is governed by Section 76-8-508;

(c) tampering with a witness, which is governed by Section 76-8-508; or

(d) extortion or bribery to dismiss a criminal proceeding, which is governed by Section 76-8-509.

(7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony if the actor harbors or conceals an offender who has[:~~(a) absconded from a facility or from supervision as those offenses are defined in Section 76-8-309.5; or (b)~~] escaped from official custody as defined in Section 76-8-309.

**Section 4. Repealer.**

This bill repeals:

**Section 76-8-309.5, Absconding -- Definitions -- Penalty.**

**Section 5. Effective date.**

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

(2) Section 62A-7-106 (Effective 07/01/04) takes effect July 1, 2004.