

1 **CRIMINAL OFFENSE AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Gregory S. Bell**

5

LONG TITLE

6 **General Description:**

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

8 **Highlighted Provisions:**

9 This bill:

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

12 **Monies Appropriated in this Bill:**

13 None

14 **Other Special Clauses:**

15 This bill provides an effective date.

16 **Utah Code Sections Affected:**

17 AMENDS:

18 **62A-7-106 (Superseded 07/01/04)**, as last amended by Chapter 203, Laws of Utah
19 2000

20 **62A-7-106 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

21 **76-8-306**, as last amended by Chapter 179, Laws of Utah 2003

22 REPEALS:

23 **76-8-309.5**, as last amended by Chapter 203, Laws of Utah 2000

24

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

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 Section **62A-7-106 (Superseded 07/01/04)** is amended to read:



28 **62A-7-106 (Superseded 07/01/04). Aiding or concealing youth offender --**
29 **Trespass -- Criminal penalties.**

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

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

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

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

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

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

40 (i) escaped from a secure facility; or

41 (ii) absconded from:

42 (A) a facility or supervision~~[-as these offenses are defined in Subsections~~
43 ~~76-8-309.5(1) and (2)]~~; or

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

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

47 (3) As used in this section:

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

49 (i) leaves the facility without permission; or

50 (ii) fails to return at a prescribed time.

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

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

55 (ii) for the purpose of avoiding supervision:

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

57 (B) leaves his reported residence.

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

59 **62A-7-106 (Effective 07/01/04). Aiding or concealing youth offender -- Trespass --**
 60 **Criminal penalties.**

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

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

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

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

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

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

71 (i) escaped from a secure facility; or

72 (ii) absconded from:

73 (A) a facility or supervision~~[-as these offenses are defined in Subsections~~
 74 ~~76-8-309.5(1) and (2)]~~; or

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

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

78 (3) As used in this section:

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

80 (i) leaves the facility without permission; or

81 (ii) fails to return at a prescribed time.

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

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

86 (ii) for the purpose of avoiding supervision:

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

88 (B) leaves his reported residence.

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

90 **76-8-306. Obstruction of justice -- Elements -- Penalties -- Exceptions.**

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

94 (a) provides any person with a weapon;

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

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

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

100 (e) harbors or conceals a person;

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

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

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

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

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

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

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

114 (b) A violation of a criminal statute that is committed in another state, or any district,
115 possession, or territory of the United States, is a:

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

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

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

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

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

125 (3) The penalties for obstruction of justice are:

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

128 (b) a third degree felony if:

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

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

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

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

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

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

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

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

142 (b) influencing, impeding, or retaliating against a judge or member of the Board of
143 Pardons and Parole, which is governed by Section 76-8-508;

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

145 (d) extortion or bribery to dismiss a criminal proceeding, which is governed by Section
146 76-8-509.

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

151 Section 4. **Repealer.**

152 This bill repeals:
153 Section **76-8-309.5, Absconding -- Definitions -- Penalty.**
154 Section 5. **Effective date.**
155 (1) If approved by two-thirds of all the members elected to each house, this bill takes
156 effect upon approval by the governor, or the day following the constitutional time limit of Utah
157 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
158 the date of veto override.
159 (2) Section 62A-7-106 (Effective 07/01/04) takes effect July 1, 2004.

Legislative Review Note
as of **1-29-04 11:59 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0158

Criminal Offense Amendments

05-Feb-04

10:32 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst