

Representative Curtis Oda proposes the following substitute bill:

OFFENSE AGAINST PEACE OFFICERS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Jon J. Greiner

LONG TITLE

General Description:

This bill modifies the Criminal Code ~~§~~ [and the Code of Criminal Procedure] ~~←~~§ regarding

~~§~~ [peace officers, including an officer's authority to stop a person,] ~~←~~§ the offense of propelling an item at a peace officer or correctional officer ~~§~~ [and the offense of assaulting a peace officer] ~~←~~§ .

Highlighted Provisions:

This bill:

~~§~~ [provides that a person who assaults a peace officer after the person has been stopped for questioning is guilty of a third-degree felony; and] ~~←~~§

▶ amends the offense of propelling substances at peace and correctional officers to include persons other than prisoners ~~§~~ ; and

▶ provides that the offense of propelling a bodily substance at an officer when the actor is infected with HIV, hepatitis B, or hepatitis C includes the requirement that the actor know that he or she is infected ~~←~~§ .

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~§~~ [76-5-101, as last amended by Chapter 171, Laws of Utah 2003



26 ~~76-5-102.4, as last amended by Chapter 172, Laws of Utah 1998]~~ ←H

27 ~~76-5-102.6, as last amended by Chapter 230, Laws of Utah 2005~~

28

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

30 ~~H→ [Section 1. Section 76-5-101 is amended to read:~~

31 ~~76-5-101. "Prisoner" defined.~~

32 ~~[For purposes of] As used in this part, "prisoner" means any person who is:~~

33 ~~(1) in custody of a peace officer pursuant to a lawful arrest [or who is];~~

34 ~~(2) lawfully detained pursuant to Section 77-7-15; or~~

35 ~~(3) confined in a jail or other penal institution or a facility used for confinement of~~
 36 ~~delinquent juveniles and that is operated by the Division of Juvenile Justice Services;~~
 37 ~~regardless of whether the confinement is legal.~~

38 ~~Section 2. Section 76-5-102.4 is amended to read:~~

39 ~~76-5-102.4. Assault against peace officer -- Penalty.~~

40 ~~(1) Any person who assaults a peace officer, with knowledge that he is a peace officer,~~
 41 ~~and when the peace officer:~~

42 ~~(a) is acting within the scope of his authority as a peace officer, is guilty of a class A~~
 43 ~~misdemeanor; and~~

44 ~~(b) is acting within the scope of his authority as a peace officer to stop and question the~~
 45 ~~person pursuant to Section 77-7-15, is guilty of a third degree felony.~~

46 ~~(2) A person who violates this section shall serve, in jail or another correctional~~
 47 ~~facility, a minimum of:~~

48 ~~(a) 90 consecutive days for a second offense; and~~

49 ~~(b) 180 consecutive days for each subsequent offense.~~

50 ~~(3) The court may suspend the imposition or execution of the sentence required under~~
 51 ~~Subsection (2) if the court:~~

52 ~~(a) finds that the interests of justice would be best served; and~~

53 ~~(b) makes specific findings concerning the disposition in writing or on the record.] ←H~~

54 Section H→ [3] 1 ←H . Section 76-5-102.6 is amended to read:

55 76-5-102.6. Propelling substance or object at a correctional or peace officer --
 56 Penalties.

57 (1) Any prisoner ~~H~~→ **or person detained pursuant to Section 77-7-15** ←~~H~~ who
57a throws or otherwise propels any substance or object at a peace or
58 correctional officer is guilty of a class A misdemeanor, except as provided under Subsection
59 (2).

60 (2) A violation of Subsection (1) is a third degree felony if:

61 (a) the object or substance is:

62 (i) blood, urine, or fecal material; or

63 (ii) the prisoner's ~~S~~→ **or detained person's** ←~~S~~ saliva, and the prisoner ~~S~~→ **or detained**
63a **person knows he or she** ←~~S~~ is infected with HIV, hepatitis B, or hepatitis
64 C; and

65 (b) the object or substance comes into contact with any portion of the officer's face,
66 including the eyes or mouth, or comes into contact with any open wound on the officer's body.

67 (3) If an offense committed under this section amounts to an offense subject to a
68 greater penalty under another provision of state law than under this section, this section does
69 not prohibit prosecution and sentencing for the more serious offense.

H.B. 275 1st Sub. (Buff) - Offense Against Peace Officers - As Amended

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
