

1 **ASSAULT ON A PEACE OFFICER PENALTY**

2 **AMENDMENTS**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Paul Ray**

6 Senate Sponsor: Darin G. Peterson

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Criminal Code regarding assault on a peace officer.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ increases the penalty for committing a second or subsequent assault against a peace
- 14 officer from a class A misdemeanor to a third degree felony;
- 15 ▶ provides that the section amended in this bill does not affect the exercise of
- 16 constitutional rights, including the right of free speech and the right of assembly; and
- 17 ▶ provides a definition of "peace officer."

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **76-5-102.4**, as last amended by Laws of Utah 1998, Chapter 172

25

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

27 Section 1. Section **76-5-102.4** is amended to read:

28 **76-5-102.4. Assault against peace officer -- Penalty.**

29 (1) As used in this section, "peace officer" means a law enforcement officer certified

30 under Section 53-13-103.

31 [~~(1)~~] (2) (a) Any person who assaults a peace officer, with knowledge that he is a peace
32 officer, and when the peace officer is acting within the scope of his authority as a peace officer,
33 is guilty of a class A misdemeanor, except as provided in Subsection (2)(b).

34 (b) A person who violates this section and has been previously convicted of a violation
35 of this section is guilty of a third degree felony.

36 [~~(2)~~] (3) A person who violates this section shall serve, in jail or another correctional
37 facility, a minimum of:

38 (a) 90 consecutive days for a second offense; and

39 (b) 180 consecutive days for each subsequent offense.

40 [~~(3)~~] (4) The court may suspend the imposition or execution of the sentence required
41 under Subsection [~~(2)~~] (3) if the court finds that the interests of justice would be best served and
42 makes specific findings concerning the disposition in writing or on the record.

43 (5) This section does not affect or limit any individual's constitutional right to the lawful
44 expression of free speech, the right of assembly, or any other recognized rights secured by the
45 Constitution or laws of Utah or by the Constitution or laws of the United States.