

**ASSAULT ON A PEACE OFFICER PENALTY**

**AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: Darin G. Peterson

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**LONG TITLE**

**Committee Note:**

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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



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

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

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

(1) As used in this section, "peace officer" means a law enforcement officer certified under Section 53-13-103.

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

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

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

- (a) 90 consecutive days for a second offense; and
- (b) 180 consecutive days for each subsequent offense.

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

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

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**Legislative Review Note**  
**as of 9-20-07 4:48 PM**

**Office of Legislative Research and General Counsel**

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**H.B. 19 - Assault on a Peace Officer Penalty Amendments**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will require additional appropriations for increased Judicial Branch and Department of Corrections workload cost increases. The Courts will require ongoing General Funds of \$7,400 beginning FY 2009. The Department of Corrections will require one-time General Funds of \$25,700 in FY 2009 and ongoing General Funds of \$51,400 beginning FY 2010.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$33,100	\$58,800	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$33,100</b>	<b>\$58,800</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**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.