

**SEX OFFENSE AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon J. Greiner**

House Sponsor: Carl Wimmer

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**LONG TITLE**

**General Description:**

This bill modifies the Criminal Code regarding sexual activity between minors and unlawful sexual conduct with minors.

**Highlighted Provisions:**

This bill:

► provides that a minor who is younger than 16 years of age, and who engages in sexual activity with another minor who is less than three years older or younger than the acting minor, but who is not older than 17 years, is guilty of a class B misdemeanor if the sexual conduct does not involve forcible acts, including rape, sexual abuse, and forcible sodomy; and

► amends the offense of unlawful sexual conduct with a 16 or 17 year old to include the taking of indecent liberties.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-5-401.2**, as enacted by Laws of Utah 1998, Chapter 183

ENACTS:



28 76-5-401.3, Utah Code Annotated 1953



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

31 Section 1. Section 76-5-401.2 is amended to read:

32 **76-5-401.2. Unlawful sexual conduct with a 16 or 17 year old.**

33 (1) ~~[For purposes of]~~ As used in this section, "minor" means a person who is 16 years  
34 of age or older, but younger than 18 years of age, at the time the sexual conduct described in  
35 ~~[this section]~~ Subsection (2) occurred.

36 (2) A person commits unlawful sexual conduct with a minor if, under circumstances  
37 not amounting to ~~[rape, in violation of Section 76-5-402, object rape, in violation of Section~~  
38 ~~76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in~~  
39 ~~violation of Section 76-5-405, the]~~ an offense listed under Subsection (3), an actor who is ten  
40 or more years older than the minor at the time of the sexual conduct:

41 (a) has sexual intercourse with the minor;

42 (b) engages in any sexual act with the minor involving the genitals of one person and  
43 the mouth or anus of another person, regardless of the sex of either participant; ~~[or]~~

44 (c) causes the penetration, however slight, of the genital or anal opening of the minor  
45 by any foreign object, substance, instrument, or device, including a part of the human body,  
46 with the intent to cause substantial emotional or bodily pain to any person or with the intent to  
47 arouse or gratify the sexual desire of any person, regardless of the sex of any participant~~[-]; or~~

48 (d) touches the anus, buttocks, or any part of the genitals of the minor, or touches the  
49 breast of a female minor, or otherwise takes indecent liberties with the minor, or causes a  
50 minor to take indecent liberties with the actor or another person, with the intent to cause  
51 substantial emotional or bodily pain to any person or with the intent to arouse or gratify the  
52 sexual desire of any person regardless of the sex of any participant.

53 (3) The offenses referred to in Subsection (2) are:

54 (a) (i) rape, in violation of Section 76-5-402;

55 (ii) object rape, in violation of Section 76-5-402.2;

56 (iii) forcible sodomy, in violation of Section 76-5-403;

57 (iv) forcible sexual abuse, in violation of Section 76-5-404; or

58 (v) aggravated sexual assault, in violation of Section 76-5-405; or

59 (b) an attempt to commit any offense under Subsection (3)(a).

60 [~~3~~] (4) A violation of Subsection (2)(a), (b), or (c) is a third degree felony.

61 (5) A violation of Subsection (2)(d) is a class A misdemeanor.

62 Section 2. Section **76-5-401.3** is enacted to read:

63 **76-5-401.3. Unlawful sexual activity between minors -- Elements -- Penalty.**

64 (1) As used in this section, "minor" means an actor who is younger than 16 years of age  
65 at the time the minor engages in sexual conduct described in Subsection (2).

66 (2) A minor commits unlawful sexual activity between minors if, under circumstances  
67 not amounting to any offense listed in Subsection (3), the minor actor engages in any of the  
68 following conduct with another person who is fewer than three years older or fewer than three  
69 years younger than the minor, but not older than 17 years of age:

70 (a) sexual intercourse;

71 (b) any sexual act involving the genitals of one person and the mouth or anus of  
72 another person, regardless of the sex of either participant; or

73 (c) causes the penetration, however slight, of the genital or anal opening of the person  
74 by any foreign object, substance, instrument, or device, including a part of the human body,  
75 with the intent to cause substantial emotional or bodily pain to any person or with the intent to  
76 arouse or gratify the sexual desire of any person, regardless of the sex of any participant.

77 (3) The offenses referred to in Subsection (2) are:

78 (a) rape, in violation of Section 76-5-402;

79 (b) rape of a child, in violation of Section 76-5-402.1;

80 (c) object rape, in violation of Section 76-5-402.2;

81 (d) object rape of a child, in violation of Section 76-5- 402.3;

82 (e) forcible sodomy, in violation of Section 76-5-403;

83 (f) sodomy on a child, in violation of Section 76-5-403.1;

84 (g) forcible sexual abuse, in violation of Section 76-5- 404;

85 (h) sexual abuse of a child, in violation of Section 76-5- 404.1; or

86 (i) any other offense that involves sexual conduct and which would be consensual but  
87 for the age of one or more of the parties.

88 (4) A violation of Subsection (2), unlawful sexual activity between minors, is a class B  
89 misdemeanor.

90            (5) Charging a minor under this section does not prohibit charging any other person  
91 with an offense.

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**Legislative Review Note**  
as of 1-29-08 6:27 AM

**Office of Legislative Research and General Counsel**

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**S.B. 192 - Sex Offense Amendments**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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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.

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