

1 **AGGRAVATED SEXUAL ASSAULT**
2 **AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Carl Wimmer**

6 Senate Sponsor: Mark B. Madsen

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the elements and penalties for the crime of aggravated sexual assault.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the elements and penalties for the crime of aggravated sexual assault; and
- 14 ▶ makes technical changes.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **76-5-405**, as last amended by Laws of Utah 2007, Chapter 339

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

24 Section 1. Section **76-5-405** is amended to read:

25 **76-5-405. Aggravated sexual assault -- Penalty.**

26 (1) A person commits aggravated sexual assault if:

27 (a) in the course of a rape, object rape, forcible sodomy, or forcible sexual abuse, the



28 actor:

29 (i) uses, or threatens the victim with the use of, a dangerous weapon as defined in
30 Section 76-1-601;

31 (ii) compels, or attempts to compel, the victim to submit to rape, object rape, forcible
32 sodomy, or forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be
33 inflicted imminently on any person; or

34 (iii) is aided or abetted by one or more persons;

35 (b) in the course of [a rape or] an attempted rape, [object rape or] attempted object
36 rape, [forcible sodomy] or attempted forcible sodomy, [or forcible sexual abuse or attempted
37 forcible sexual abuse] the actor:

38 ~~[(a)]~~ (i) causes serious bodily injury to [the victim that does not amount to serious
39 bodily injury] any person;

40 ~~[(b)]~~ (ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in
41 Section 76-1-601;

42 ~~[(c) compels, or]~~ (iii) attempts to compel[;] the victim to submit to rape, object rape,
43 or forcible sodomy, [or forcible sexual abuse,] by threat of kidnaping, death, or serious bodily
44 injury to be inflicted imminently on any person; or

45 ~~[(d)]~~ (iv) is aided or abetted by one or more persons[;] or

46 (c) in the course of an attempted forcible sexual abuse, the actor:

47 (i) causes serious bodily injury to any person;

48 (ii) uses, or threatens the victim with the use of, a dangerous weapon as defined in
49 Section 76-1-601;

50 (iii) attempts to compel the victim to submit to forcible sexual abuse, by threat of
51 kidnaping, death, or serious bodily injury to be inflicted imminently on any person; or

52 (iv) is aided or abetted by one or more persons.

53 (2) Aggravated sexual assault is a first degree felony, punishable by a term of
54 imprisonment of:

55 (a) for an aggravated sexual assault described in Subsection (1)(a):

56 ~~[(a)]~~ (i) except as provided in Subsection [(2)(b), (2)(c), or (3)] (2)(a)(ii) or (3)(a), not
57 less than 15 years and which may be for life; or

58 ~~[(b) except as provided in Subsection (2)(c) or (3), life without parole, if the trier of~~

59 fact finds that during the course of the commission of the aggravated sexual assault, the
 60 defendant caused serious bodily injury to another; or]

61 ~~[(c)]~~ (ii) life without parole, if the trier of fact finds that at the time of the commission
 62 of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual
 63 offense[-];

64 (b) for an aggravated sexual assault described in Subsection (1)(b):

65 (i) except as provided in Subsection (2)(b)(ii) or (4)(a), not less than ten years and
 66 which may be for life; or

67 (ii) life without parole, if the trier of fact finds that at the time of the commission of the
 68 aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense;
 69 or

70 (c) for an aggravated sexual assault described in Subsection (1)(c):

71 (i) except as provided in Subsection (2)(c)(ii) or (5)(a), not less than six years and
 72 which may be for life; or

73 (ii) life without parole, if the trier of fact finds that at the time of the commission of the
 74 aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense.

75 (3) (a) If, when imposing a sentence under Subsection (2)(a)(i) ~~[or (b)]~~, a court finds
 76 that a lesser term than the term described in Subsection (2)(a)(i) ~~[or (b)]~~ is in the interests of
 77 justice and states the reasons for this finding on the record, the court may impose a term of
 78 imprisonment of not less than:

79 ~~[(a) for purposes of Subsection (2)(b), 15 years and which may be for life;]~~

80 ~~[(b) for purposes of Subsection (2)(a) or (b):]~~

81 (i) ten years and which may be for life; or

82 (ii) six years and which may be for life.

83 ~~[(4)]~~ (b) The provisions of Subsection (3)(a) do not apply when a person is sentenced
 84 under Subsection (2)~~[(c)]~~(a)(ii).

85 (4) (a) If, when imposing a sentence under Subsection (2)(b)(i), a court finds that a
 86 lesser term than the term described in Subsection (2)(b)(i) is in the interests of justice and states
 87 the reasons for this finding on the record, the court may impose a term of imprisonment of not
 88 less than six years and which may be for life.

89 (b) The provisions of Subsection (4)(a) do not apply when a person is sentenced under

90 Subsection (2)(b)(ii).

91 (5) (a) If, when imposing a sentence under Subsection (2)(c)(i), a court finds that a
92 lesser term than the term described in Subsection (2)(c)(i) is in the interests of justice and states
93 the reasons for this finding on the record, the court may impose a term of imprisonment of not
94 less than three years and which may be for life.

95 (b) The provisions of Subsection (5)(a) do not apply when a person is sentenced under
96 Subsection (2)(c)(ii).

97 [~~5~~] (6) Imprisonment under this section is mandatory in accordance with Section
98 76-3-406.

Legislative Review Note
as of 1-5-09 10:39 AM

Office of Legislative Research and General Counsel

H.B. 233 - Aggravated Sexual Assault Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations for at least 20 years after implementation. There may be an impact to the Department of Corrections and the Board of Pardons beginning FY 2030, however the impact is not quantifiable at this time.

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.
