

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ASSAULT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Bird

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code to increase penalties related to assault.

Highlighted Provisions:

This bill:

- ▶ increases the penalties for the following offenses as described:
 - increases the penalty from a class A misdemeanor to a third degree felony for a person who assaults an employee of a public or private school with knowledge that the individual is an employee, and when the employee is acting within the scope of the employee's authority;
 - increases the penalty from a class A misdemeanor to a third degree felony for a person who assaults a military service member in uniform when the service member is on orders and acting within the scope of authority granted to the military service member;
 - increases the penalty from a class A misdemeanor to a third degree felony for a person who assaults a peace officer, with knowledge that the person is a peace officer, and when the peace officer is acting within the scope of the officer's authority;
 - provides a second degree felony penalty for a person who has previously been convicted of assaulting a peace officer or a military service member in uniform;
 - provides that a prisoner or person detained pursuant to Section 77-7-15 who



28 throws or propels any substance or object at a peace officer or correctional officer is guilty of a
29 third degree felony, except that it is a second degree felony if the object or substance is:

- 30 ▶ blood, urine, or fecal material; or
- 31 ▶ the prisoner's or detained person's saliva, and the prisoner or
32 detained person knows he or she is infected with HIV, hepatitis
33 B, or hepatitis C; and
- 34 ▶ the substance comes in contact with any portion of the officer's
35 face, including the eyes or mouth, or comes into contact with any
36 open wound on the officer's body; and

37 • increases the penalty from a class A misdemeanor to a third degree felony for a
38 person who assaults a health care provider or emergency medical service worker
39 if:

- 40 ▶ the person knew that the victim was a health care provider or
41 emergency medical service worker; and
- 42 ▶ the health care provider or emergency medical service worker
43 was performing emergency or life saving duties within the
44 person's scope of authority at the time of the assault.

45 **Money Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 None

49 **Utah Code Sections Affected:**

50 AMENDS:

- 51 **76-5-102.3**, as enacted by Laws of Utah 1992, Chapter 163
- 52 **76-5-102.4**, as last amended by Laws of Utah 2009, Chapter 125
- 53 **76-5-102.6**, as last amended by Laws of Utah 2007, Chapter 157
- 54 **76-5-102.7**, as last amended by Laws of Utah 2008, Chapter 3

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

57 Section 1. Section **76-5-102.3** is amended to read:

58 **76-5-102.3. Assault against school employees.**

59 (1) Any person who assaults an employee of a public or private school, with
60 knowledge that the individual is an employee, and when the employee is acting within the
61 scope of his authority as an employee, is guilty of a [~~class A misdemeanor~~] third degree felony.

62 (2) As used in this section, "employee" includes a volunteer.

63 Section 2. Section **76-5-102.4** is amended to read:

64 **76-5-102.4. Assault against peace officer or a military service member in uniform**
65 **-- Penalty.**

66 (1) As used in this section:

67 (a) "Military service member in uniform" means:

68 (i) a member of any branch of the United States military who is wearing a uniform as
69 authorized by the member's branch of service; or

70 (ii) a member of the National Guard serving as provided in Section 39-1-5 or 39-1-9.

71 (b) "Peace officer" means a law enforcement officer certified under Section 53-13-103.

72 (2) (a) A person is guilty of a [~~class A misdemeanor~~] third degree felony, except as
73 provided in Subsection (2)(b), who:

74 (i) assaults a peace officer, with knowledge that he is a peace officer, and when the
75 peace officer is acting within the scope of his authority as a peace officer; or

76 (ii) assaults a military service member in uniform when that service member is on
77 orders and acting within the scope of authority granted to the military service member in
78 uniform.

79 (b) A person who violates this section and has been previously convicted of a violation
80 of this section is guilty of a [~~third~~] second degree felony.

81 (3) A person who violates this section shall serve, in jail or another correctional
82 facility, a minimum of:

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

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

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

88 (5) This section does not affect or limit any individual's constitutional right to the
89 lawful expression of free speech, the right of assembly, or any other recognized rights secured

90 by the Constitution or laws of Utah or by the Constitution or laws of the United States.

91 Section 3. Section **76-5-102.6** is amended to read:

92 **76-5-102.6. Propelling substance or object at a correctional or peace officer --**

93 **Penalties.**

94 (1) Any prisoner or person detained pursuant to Section 77-7-15 who throws or
95 otherwise propels any substance or object at a peace or correctional officer is guilty of a [~~class~~
96 ~~A misdemeanor~~] third degree felony, except as provided under Subsection (2).

97 (2) A violation of Subsection (1) is a [~~third~~] second degree felony if:

98 (a) the object or substance is:

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

100 (ii) the prisoner's or detained person's saliva, and the prisoner or detained person knows
101 he or she is infected with HIV, hepatitis B, or hepatitis C; and

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

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

107 Section 4. Section **76-5-102.7** is amended to read:

108 **76-5-102.7. Assault against health care provider and emergency medical service**
109 **worker -- Penalty.**

110 (1) A person who assaults a health care provider or emergency medical service worker
111 is guilty of a [~~class A misdemeanor~~] third degree felony if:

112 (a) the person knew that the victim was a health care provider or emergency medical
113 service worker; and

114 (b) the health care provider or emergency medical service worker was performing
115 emergency or life saving duties within the scope of his authority at the time of the assault.

116 (2) As used in this section:

117 (a) "Emergency medical service worker" means a person certified under Section
118 26-8a-302.

119 (b) "Health care provider" has the meaning as provided in Section 78B-3-403.

Legislative Review Note
as of 12-2-10 2:19 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 69

SHORT TITLE: **Assault Amendments**

SPONSOR: **Bird, J.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Implementing this bill will cost \$334,400 in FY 2012. Costs will increase annually until FY 2016 when expenses will level off at \$1,960,700 in General Fund. Funding to agencies in FY 2012: \$2,400 to Board of Pardons, \$140,000 to Corrections, \$81,000 to Jail Reimbursement, and \$110,000 to Courts. Funding to agencies in FY 2016: \$29,200 to Board of Pardons, \$1,740,500 to Corrections, \$81,000 to Jail Reimbursement, and \$110,000 to Courts.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$58,600	\$58,600
Total Revenue	\$0	\$58,600	\$58,600
Expenditure:			
General Fund	\$0	\$1,960,700	\$1,960,700
General Fund, One-Time	\$0	(\$1,627,300)	(\$972,400)
Total Expenditure	\$0	\$333,400	\$988,300
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$274,800)	(\$929,700)
Net Impact, General/Education Funds	\$0	(\$274,800)	(\$929,700)

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Local government jail costs will increase by \$145,000 in FY 2012 ongoing.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.