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ASSAULT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the offense of assault against a peace officer or military service member.

Highlighted Provisions:

This bill:

- ▶ creates the third degree offense of assaulting a peace officer or military service member in uniform if the offender causes substantial bodily injury; and
- ▶ creates the second degree offense of assaulting a peace officer or a military service member in uniform while the offender is using a dangerous weapon or force likely to cause serious injury or death.

Money 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 2009, Chapter 125

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

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



28 **76-5-102.4. Assault against peace officer or a military service member in uniform**

29 **-- Penalties.**

30 (1) As used in this section:

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

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

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

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

36 (2) ~~[(a)]~~ A person is guilty of a class A misdemeanor, except as provided in

37 ~~[Subsection (2)(b)]~~ Subsections (3) and (4), who:

38 ~~[(i)]~~ (a) assaults a peace officer, with knowledge that he is a peace officer, and when
39 the peace officer is acting within the scope of his authority as a peace officer; or

40 ~~[(ii)]~~ (b) assaults a military service member in uniform when that service member is on
41 orders and acting within the scope of authority granted to the military service member in
42 uniform.

43 ~~[(b)]~~ (3) A person who violates ~~[this section and]~~ Subsection (2) is guilty of a third
44 degree felony if the person:

45 (a) has been previously convicted of a violation of ~~[this section is guilty of a third~~
46 ~~degree felony;]~~ Subsection (2); or

47 (b) the person causes substantial bodily injury.

48 (4) A person who violates Subsection (2) is guilty of a second degree felony if the
49 person uses:

50 (a) a dangerous weapon as defined in Section 76-1-601; or

51 (b) other means or force likely to produce death or serious bodily injury.

52 ~~[(3)]~~ (5) A person who violates this section shall serve, in jail or another correctional
53 facility, a minimum of:

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

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

56 ~~[(4)]~~ (6) The court may suspend the imposition or execution of the sentence required
57 under Subsection ~~[(3)]~~ (5) if the court finds that the interests of justice would be best served by
58 the suspension and the court makes specific findings concerning the disposition ~~[in writing or]~~

59 on the record.

60 [~~(5)~~] (7) This section does not affect or limit any individual's constitutional right to the
61 lawful expression of free speech, the right of assembly, or any other recognized rights secured
62 by the Constitution or laws of Utah or by the Constitution or laws of the United States.

Legislative Review Note
as of 12-19-11 6:30 AM

Office of Legislative Research and General Counsel