

1 **CRIMES AGAINST HEALTH CARE PROVIDERS IN**
2 **CORRECTIONAL SYSTEM**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Brad M. Daw**

6 Senate Sponsor: Margaret Dayton

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah Criminal Code regarding propelling a substance or object at
11 a health care provider.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides that employees, volunteers, and health care providers are victims in the
15 statutory section that currently defines the offense of propelling a substance or
16 object, including a bodily fluid, at a peace officer or correctional officer; and
- 17 ▶ applies the same penalties as currently apply to the offense when committed against
18 a peace officer or correctional officer.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides a special effective date.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **53-10-403**, as last amended by Laws of Utah 2014, Chapter 331

26 **76-5-102.6**, as last amended by Laws of Utah 2013, Chapter 306

27 **76-5-102.7**, as last amended by Laws of Utah 2008, Chapter 3

28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **53-10-403** is amended to read:

31 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

32 (1) Sections **53-10-404**, **53-10-404.5**, **53-10-405**, and **53-10-406** apply to any person
33 who:

34 (a) has pled guilty to or has been convicted of any of the offenses under Subsection
35 (2)(a) or (b) on or after July 1, 2002;

36 (b) has pled guilty to or has been convicted by any other state or by the United States
37 government of an offense which if committed in this state would be punishable as one or more
38 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

39 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
40 offense under Subsection (2)(c);

41 (d) has been booked:

42 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
43 2014, through December 31, 2014, under Subsection **53-10-404(4)(b)** for any felony offense; or

44 (ii) on or after January 1, 2015, for any felony offense; or

45 (e) is a minor under Subsection (3).

46 (2) Offenses referred to in Subsection (1) are:

47 (a) any felony or class A misdemeanor under the Utah Code;

48 (b) any offense under Subsection (2)(a):

49 (i) for which the court enters a judgment for conviction to a lower degree of offense
50 under Section **76-3-402**; or

51 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
52 defined in Section **77-2a-1**; or

53 (c) (i) any violent felony as defined in Section **53-10-403.5**;

54 (ii) sale or use of body parts, Section **26-28-116**;

55 (iii) failure to stop at an accident that resulted in death, Section **41-6a-401.5**;

56 (iv) driving with any amount of a controlled substance in a person's body and causing
57 serious bodily injury or death, Subsection **58-37-8(2)(g)**;

- 58 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- 59 (vi) a felony violation of propelling a substance or object at a correctional [or] officer,
- 60 a peace officer, or an employee or a volunteer, including health care providers, Section
- 61 76-5-102.6;
- 62 (vii) aggravated human trafficking and aggravated human smuggling, Section
- 63 76-5-310;
- 64 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 65 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 66 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 67 (xi) sale of a child, Section 76-7-203;
- 68 (xii) aggravated escape, Subsection 76-8-309(2);
- 69 (xiii) a felony violation of assault on an elected official, Section 76-8-315;
- 70 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of
- 71 Pardons and Parole, Section 76-8-316;
- 72 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 73 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 74 (xvii) a felony violation of sexual battery, Section 76-9-702.1;
- 75 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 76 (xix) a felony violation of abuse or desecration of a dead human body, Section
- 77 76-9-704;
- 78 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section
- 79 76-10-402;
- 80 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
- 81 Section 76-10-403;
- 82 (xxii) possession of a concealed firearm in the commission of a violent felony,
- 83 Subsection 76-10-504(4);
- 84 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,
- 85 Subsection 76-10-1504(3);

- 86 (xxiv) commercial obstruction, Subsection 76-10-2402(2);
- 87 (xxv) a felony violation of failure to register as a sex or kidnap offender, Section
- 88 77-41-107;
- 89 (xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or
- 90 (xxvii) violation of condition for release after arrest for domestic violence, Section
- 91 77-36-2.5.

92 (3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah
 93 court has adjudicated to be within the jurisdiction of the juvenile court due to the commission
 94 of any offense described in Subsection (2), and who is:

- 95 (a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense
- 96 under Subsection (2); or
- 97 (b) in the legal custody of the Division of Juvenile Justice Services on or after July 1,
- 98 2002 for an offense under Subsection (2).

99 Section 2. Section 76-5-102.6 is amended to read:

100 **76-5-102.6. Propelling substance or object at a correctional or peace officer --**
 101 **Penalties.**

102 (1) Any prisoner or person detained pursuant to Section 77-7-15 who throws or
 103 otherwise propels any substance or object at a peace ~~[or]~~ officer, a correctional officer, or an
 104 employee or volunteer, including a health care provider, is guilty of a class A misdemeanor,
 105 except as provided under Subsection (2).

106 (2) A violation of Subsection (1) is a third degree felony if:

- 107 (a) the object or substance is:
 - 108 (i) blood, urine, or fecal material;
 - 109 (ii) an infectious agent as defined in Section 26-6-2 or a material that carries an
 - 110 infectious agent;
 - 111 (iii) vomit or a material that carries vomit; or
 - 112 (iv) the prisoner's or detained person's saliva, and the prisoner or detained person
 - 113 knows he or she is infected with HIV, hepatitis B, or hepatitis C; and

114 (b) the object or substance comes into contact with any portion of the officer's or health
115 care provider's face, including the eyes or mouth, or comes into contact with any open wound
116 on the officer's or health care provider's body.

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

120 Section 3. Section **76-5-102.7** is amended to read:

121 **76-5-102.7. Assault against health care provider and emergency medical service**
122 **worker -- Penalty.**

123 (1) A person who assaults a health care provider or emergency medical service worker
124 is guilty of a class A misdemeanor if:

125 (a) the person is not a prisoner or a person detained under Section [77-7-15](#);

126 ~~[(a)]~~ (b) the person knew that the victim was a health care provider or emergency
127 medical service worker; and

128 ~~[(b)]~~ (c) the health care provider or emergency medical service worker was performing
129 emergency or life saving duties within the scope of his or her authority at the time of the
130 assault.

131 (2) As used in this section:

132 (a) "Emergency medical service worker" means a person certified under Section
133 [26-8a-302](#).

134 (b) "Health care provider" ~~[has the meaning as provided]~~ means the same as that term
135 is defined in Section [78B-3-403](#).

136 Section 4. **Effective date.**

137 If approved by two-thirds of all the members elected to each house, this bill takes effect
138 upon approval by the governor, or the day following the constitutional time limit of Utah
139 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
140 the date of veto override.