

Representative Kay J. Christofferson proposes the following substitute bill:

STATUTE OF LIMITATIONS FOR SEXUAL OFFENSES

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kay J. Christofferson

Senate Sponsor: Aaron Osmond

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding sexual offenses against a child.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of aggravated sexual abuse of a child by a person in a position of special trust to provide that a victim of this offense is a minor younger than 18 years of age, rather than the current provision defining the victim as an individual younger than 14 years of age;
- ▶ provides that a position of trust means a position held by a person who is an adult and who is three or more years older than the victim; and
- ▶ repeals the provisions enacted in this legislation on June 30, 2017.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-276, as renumbered and amended by Laws of Utah 2008, Chapter 382



26 76-5-404.1, as last amended by Laws of Utah 2014, Chapters 135 and 141

27

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

29 Section 1. Section **63I-2-276** is amended to read:

30 **63I-2-276. Repeal dates -- Title 76.**

31 (1) The following language in Subsection 76-5-404.1(1) is repealed June 30, 2017:

32 (a) the language in Subsection (1)(b)(i) "except as defined under Subsection (1)(b)(ii)";

33 (b) Subsection (1)(b)(ii);

34 (c) the language in Subsection (1)(c) "an adult who is three or more years older than
35 the victim, and who holds any of the following positions";

36 (d) the phrase "who is an adult" in all places in Subsection (1)(c); and

37 (e) the language "if the cohabitant is an adult" in Subsection (1)(c)(vi).

38 (2) The language ", and who is 18 years of age or older" in Subsection (1)(a)(xix) is
39 reinstated after "secondary school".

40 Section 2. Section **76-5-404.1** is amended to read:

41 **76-5-404.1. Sexual abuse of a child -- Aggravated sexual abuse of a child.**

42 (1) As used in this section:

43 (a) "Adult" means an individual 18 years of age or older.

44 (b) (i) "Child" means an individual [~~under the age of~~] younger than 14 years of age,
45 except as defined under Subsection (1)(b)(ii).

46 (ii) "Child" means an individual younger than 18 years of age who is the victim of an
47 offense committed in violation of Subsection (4)(h).

48 (c) "Position of special trust" means an adult who is three or more years older than the
49 victim, and who holds any of the following positions:

50 (i) an adoptive parent;

51 (ii) an athletic manager [~~who is an adult~~];

52 (iii) an aunt;

53 (iv) a babysitter;

54 (v) a coach;

55 (vi) a cohabitant of a parent [~~if the cohabitant is an adult~~];

56 (vii) a counselor;

- 57 (viii) a doctor or physician;
- 58 (ix) an employer;
- 59 (x) a foster parent;
- 60 (xi) a grandparent;
- 61 (xii) a legal guardian;
- 62 (xiii) a natural parent;
- 63 (xiv) a recreational leader [~~who is an adult~~];
- 64 (xv) a religious leader;
- 65 (xvi) a sibling or a stepsibling [~~who is an adult~~];
- 66 (xvii) a scout leader [~~who is an adult~~];
- 67 (xviii) a stepparent;
- 68 (xix) a teacher or any other person employed by or volunteering at a public or private
- 69 elementary school or secondary school[~~, and who is 18 years of age or older~~];
- 70 (xx) an uncle;
- 71 (xxi) a youth leader [~~who is an adult~~]; or
- 72 (xxii) any person in a position of authority, other than those persons listed in

73 Subsections (1)(c)(i) through (xxi), which enables the person to exercise undue influence over
74 the child.

75 (2) A person commits sexual abuse of a child if, under circumstances not amounting to
76 rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these
77 offenses, the actor touches the anus, buttocks, or genitalia of any child, the breast of a female
78 child, or otherwise takes indecent liberties with a child, or causes a child to take indecent
79 liberties with the actor or another with intent to cause substantial emotional or bodily pain to
80 any person or with the intent to arouse or gratify the sexual desire of any person regardless of
81 the sex of any participant.

82 (3) Sexual abuse of a child is a second degree felony.

83 (4) A person commits aggravated sexual abuse of a child when in conjunction with the
84 offense described in Subsection (2) any of the following circumstances have been charged and
85 admitted or found true in the action for the offense:

86 (a) the offense was committed by the use of a dangerous weapon as defined in Section
87 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or

88 was committed during the course of a kidnapping;

89 (b) the accused caused bodily injury or severe psychological injury to the victim during
90 or as a result of the offense;

91 (c) the accused was a stranger to the victim or made friends with the victim for the
92 purpose of committing the offense;

93 (d) the accused used, showed, or displayed pornography or caused the victim to be
94 photographed in a lewd condition during the course of the offense;

95 (e) the accused, prior to sentencing for this offense, was previously convicted of any
96 sexual offense;

97 (f) the accused committed the same or similar sexual act upon two or more victims at
98 the same time or during the same course of conduct;

99 (g) the accused committed, in Utah or elsewhere, more than five separate acts, which if
100 committed in Utah would constitute an offense described in this chapter, and were committed
101 at the same time, or during the same course of conduct, or before or after the instant offense;

102 (h) the offense was committed by a person who occupied a position of special trust in
103 relation to the victim;

104 (i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or
105 sexual acts by the victim with any other person, or sexual performance by the victim before any
106 other person, human trafficking, or human smuggling; or

107 (j) the accused caused the penetration, however slight, of the genital or anal opening of
108 the child by any part or parts of the human body other than the genitals or mouth.

109 (5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of
110 imprisonment of:

111 (a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and
112 which may be for life;

113 (b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact
114 finds that during the course of the commission of the aggravated sexual abuse of a child the
115 defendant caused serious bodily injury to another; or

116 (c) life without parole, if the trier of fact finds that at the time of the commission of the
117 aggravated sexual abuse of a child, the defendant was previously convicted of a grievous
118 sexual offense.

119 (6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a
120 lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and
121 states the reasons for this finding on the record, the court may impose a term of imprisonment
122 of not less than:

123 (a) for purposes of Subsection (5)(b), 15 years and which may be for life; or

124 (b) for purposes of Subsection (5)(a) or (b):

125 (i) 10 years and which may be for life; or

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

127 (7) The provisions of Subsection (6) do not apply when a person is sentenced under
128 Subsection (5)(c).

129 (8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18
130 years of age at the time of the offense.

131 (9) Imprisonment under this section is mandatory in accordance with Section [76-3-406](#).