

## HB0366S01 compared with HB0366

~~text~~ shows text that was in HB0366 but was deleted in HB0366S01.

text shows text that was not in HB0366 but was inserted into HB0366S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

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#### 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~~.~~

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- ▶ 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.

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### 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

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

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

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

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

(1) The following language in Subsection 76-5-404.1(1) is repealed June 30, 2017:

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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- (i) an adoptive parent;
- (ii) an athletic manager ~~[who is an adult]~~;
- (iii) an aunt;
- (iv) a babysitter;
- (v) a coach;
- (vi) a cohabitant of a parent ~~[if the cohabitant is an adult]~~;
- (vii) a counselor;
- (viii) a doctor or physician;
- (ix) an employer;
- (x) a foster parent;
- (xi) a grandparent;
- (xii) a legal guardian;
- (xiii) a natural parent;
- (xiv) a recreational leader ~~[who is an adult]~~;
- (xv) a religious leader;
- (xvi) a sibling or a stepsibling ~~[who is an adult]~~;
- (xvii) a scout leader ~~[who is an adult]~~;
- (xviii) a stepparent;
- (xix) a teacher or any other person employed by or volunteering at a public or private elementary school or secondary school ~~[, and who is 18 years of age or older]~~;
- (xx) an uncle;
- (xxi) a youth leader ~~[who is an adult]~~; or
- (xxii) any person in a position of authority, other than those persons listed in Subsections (1)(c)(i) through (xxi), which enables the person to exercise undue influence over the child.

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

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the sex of any participant.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and

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which may be for life;

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

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

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

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

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

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

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

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

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

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

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### Legislative Review Note

~~as of 2-17-15 3:48 PM~~

~~Office of Legislative Research and General Counsel~~