

1 **PROSTITUTION AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ann Millner**

5 House Sponsor: Lee B. Perry

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah Criminal Code regarding prostitution.

10 **Highlighted Provisions:**

11 This bill:

12 ► provides that a person engages in the offense of prostitution, patronizing a
13 prostitute, or sexual solicitation when the person offers to exchange or pay another
14 person with the functional equivalent of a fee for the purpose of engaging in sexual
15 activity.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 [76-10-1302](#), as last amended by Laws of Utah 2014, Chapter 140

23 [76-10-1303](#), as last amended by Laws of Utah 2013, Chapters 30 and 196

24 [76-10-1313](#), as last amended by Laws of Utah 2013, Chapter 196

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

27 Section 1. Section **76-10-1302** is amended to read:



28 **76-10-1302. Prostitution.**

29 (1) An individual is guilty of prostitution when the individual:

30 (a) engages in any sexual activity with another individual for a fee, or the functional
31 equivalent of a fee ~~↔~~ [, including barter or trade of goods] ~~↔~~ ;

32 (b) is an inmate of a house of prostitution; or

33 (c) loiters in or within view of any public place for the purpose of being hired to
34 engage in sexual activity.35 (2) (a) Except as provided in Subsection (2)(b) or Section [76-10-1309](#), prostitution is a
36 class B misdemeanor.37 (b) Except as provided in Section [76-10-1309](#), an individual who is convicted a second
38 time, and on all subsequent convictions, of a subsequent offense of prostitution under this
39 section or under a local ordinance adopted in compliance with Section [76-10-1307](#), is guilty of
40 a class A misdemeanor.

41 (3) (a) As used in this Subsection (3):

42 (i) "Child" is as defined in Section [76-10-1301](#).43 (ii) "Child engaged in prostitution" means a child who engages in conduct described in
44 Subsection (1).45 (iii) "Child engaged in sexual solicitation" means a child who offers or agrees to
46 commit or engage in any sexual activity with another person for a fee under Subsection
47 [76-10-1313](#)(1)(a) or (c).48 (iv) "Division" means the Division of Child and Family Services created in Section
49 [62A-4a-103](#).50 (v) "Receiving center" is as defined in Section [62A-7-101](#).51 (b) Upon encountering a child engaged in prostitution or sexual solicitation, a law
52 enforcement officer shall:

53 (i) conduct an investigation;

54 (ii) refer the child to the division;

55 (iii) if an arrest is made, bring the child to a receiving center, if available; and

56 (iv) contact the child's parent or guardian, if practicable.

57 (c) If a law enforcement officer refers a child to the division under Subsection
58 (3)(b)(ii), the division shall:

59 (i) check the division's records to verify whether law enforcement referred the child to
60 the division under Subsection (3)(b)(ii) on a prior occasion; and

61 (ii) provide the information described in Subsection (3)(c)(i) to the law enforcement
62 officer.

63 (d) If law enforcement has not referred the child to the division under Subsection
64 (3)(b)(ii) on at least one prior occasion, the division shall provide services to the child under
65 Title 62A, Chapter 4a, Child and Family Services.

66 (e) If law enforcement has referred the child to the division under Subsection (3)(b)(ii)
67 on at least one prior occasion the child may be subject to delinquency proceedings under Title
68 62A, Chapter 7, Juvenile Justice Services, and Section [78A-6-601](#) through Section [78A-6-704](#).

69 Section 2. Section **76-10-1303** is amended to read:

70 **76-10-1303. Patronizing a prostitute.**

71 (1) A person is guilty of patronizing a prostitute when the person:

72 (a) pays or offers or agrees to pay another person a fee, or the functional equivalent of a
73 fee, ~~→~~ **[including barter or trade of goods]** ~~←~~ for the purpose of engaging in an act of sexual
73a activity;

74 or

75 (b) enters or remains in a house of prostitution for the purpose of engaging in sexual
76 activity.

77 (2) Patronizing a prostitute is a class B misdemeanor, except as provided in Subsection
78 (3) or (4) and Section [76-10-1309](#).

79 (3) A violation of this section that is preceded by a conviction under this section or a
80 conviction under local ordinance adopted under Section [76-10-1307](#) is a class A misdemeanor.

81 (4) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the
82 other person, a violation of Subsection (1)(a) is a third degree felony.

83 Section 3. Section **76-10-1313** is amended to read:

84 **76-10-1313. Sexual solicitation -- Penalty.**

85 (1) A person is guilty of sexual solicitation when the person:

86 (a) offers or agrees to commit any sexual activity with another person for a fee, or the
87 functional equivalent of a fee ~~→~~ **[including barter or trade of goods]** ~~←~~ ;

88 (b) pays or offers or agrees to pay a fee to another person to commit any sexual
89 activity; or

90 (c) with intent to engage in sexual activity for a fee or to pay another person to commit
91 any sexual activity for a fee engages in, offers or agrees to engage in, or requests or directs
92 another to engage in any of the following acts:

93 (i) exposure of a person's genitals, the buttocks, the anus, the pubic area, or the female
94 breast below the top of the areola;

95 (ii) masturbation;

96 (iii) touching of a person's genitals, the buttocks, the anus, the pubic area, or the female
97 breast; or

98 (iv) any act of lewdness.

99 (2) An intent to engage in sexual activity for a fee may be inferred from a person's
100 engaging in, offering or agreeing to engage in, or requesting or directing another to engage in
101 any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

102 (3) (a) Sexual solicitation is a class B misdemeanor, except under Subsection (3)(b).

103 (b) Any person who is convicted a second or subsequent time under this section or
104 under a local ordinance adopted in compliance with Section [76-10-1307](#), is guilty of a class A
105 misdemeanor, except as provided in Section [76-10-1309](#).

106 (4) If a person commits an act of sexual solicitation and the person solicited is a child,
107 the offense is a third degree felony if the solicitation does not amount to human trafficking or
108 human smuggling, a violation of Section [76-5-308](#), or aggravated human trafficking or
109 aggravated human smuggling, a violation of Section [76-5-310](#).

Legislative Review Note
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Office of Legislative Research and General Counsel