

HUMAN TRAFFICKING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding the penalty for aggravated human trafficking offenses involving a child.

Highlighted Provisions:

This bill:

- ▶ changes the penalty for aggravated human trafficking from a first degree penalty to a capital offense if the victim is 17 years old or younger and the offense results in the death of the trafficked person; and
- ▶ prohibits the reduction of any sentence for the aggravated trafficking of a minor.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-406, as last amended by Laws of Utah 2011, Chapter 366

76-5-310, as last amended by Laws of Utah 2015, Chapter 160

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

Section 1. Section **76-3-406** is amended to read:



28 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**
 29 **offense, or hospitalization may not be granted.**

30 Notwithstanding Sections [76-3-201](#) and [77-18-1](#) and Title 77, Chapter 16a,
 31 Commitment and Treatment of Persons with a Mental Illness, except as provided in Section
 32 [76-5-406.5](#), probation ~~[shall]~~ may not be granted, the execution or imposition of sentence
 33 ~~[shall]~~ may not be suspended, the court ~~[shall]~~ may not enter a judgment for a lower category
 34 of offense, and hospitalization ~~[shall]~~ may not be ordered, the effect of which would in any way
 35 shorten the prison sentence for any person who commits a capital felony or a first degree felony
 36 involving:

- 37 (1) Section [76-5-202](#), aggravated murder;
 38 (2) Section [76-5-203](#), murder;
 39 (3) Section [76-5-301.1](#), child kidnaping;
 40 (4) Section [76-5-302](#), aggravated kidnaping;
 41 (5) Section [76-5-310](#), aggravated human trafficking;
 42 ~~[(5)]~~ (6) Section [76-5-402](#), rape, if the person is sentenced under Subsection
 43 [76-5-402](#)(3)(b), (3)(c), or (4);
 44 ~~[(6)]~~ (7) Section [76-5-402.1](#), rape of a child;
 45 ~~[(7)]~~ (8) Section [76-5-402.2](#), object rape, if the person is sentenced under Subsection
 46 [76-5-402.2](#)(1)(b), (1)(c), or (2);
 47 ~~[(8)]~~ (9) Section [76-5-402.3](#), object rape of a child;
 48 ~~[(9)]~~ (10) Section [76-5-403](#), forcible sodomy, if the person is sentenced under
 49 Subsection [76-5-403](#)(4)(b), (4)(c), or (5);
 50 ~~[(10)]~~ (11) Section [76-5-403.1](#), sodomy on a child;
 51 ~~[(11)]~~ (12) Section [76-5-404](#), forcible sexual abuse, if the person is sentenced under
 52 Subsection [76-5-404](#)(2)(b) or (3);
 53 ~~[(12)]~~ (13) Subsections [76-5-404.1](#)(4) and (5), aggravated sexual abuse of a child;
 54 ~~[(13)]~~ (14) Section [76-5-405](#), aggravated sexual assault; or
 55 ~~[(14)]~~ (15) any attempt to commit a felony listed in Subsection ~~[(6)]~~ (7), ~~[(8)]~~ (9), or
 56 ~~[(10)]~~ (11).

57 Section 2. Section **76-5-310** is amended to read:

58 **76-5-310. Aggravated human trafficking and aggravated human smuggling --**

59 **Penalties.**

60 (1) An actor commits aggravated human trafficking for forced labor or forced sexual
61 exploitation or aggravated human smuggling if, in the course of committing a human
62 trafficking for forced labor or for forced sexual exploitation, a violation of Section 76-5-308, or
63 human smuggling offense under Section 76-5-308, the offense:

- 64 (a) results in the death of the trafficked or smuggled person;
- 65 (b) results in serious bodily injury of the trafficked or smuggled person;
- 66 (c) involves:
 - 67 (i) rape under Section 76-5-402;
 - 68 (ii) rape of a child under Section 76-5-402.1;
 - 69 (iii) object rape under Section 76-5-402.2;
 - 70 (iv) object rape of a child under Section 76-5-402.3;
 - 71 (v) forcible sodomy under Section 76-5-403;
 - 72 (vi) sodomy on a child under Section 76-5-403.1;
 - 73 (vii) aggravated sexual abuse of a child under Section 76-5-404.1; or
 - 74 (viii) aggravated sexual assault under Section 76-5-405;
- 75 (d) involves 10 or more victims in a single episode of human trafficking or human
76 smuggling; or
- 77 (e) involves a victim who is held against the victim's will for longer than 30
78 consecutive days.

79 (2) An actor commits aggravated human smuggling if the actor commits human
80 smuggling under Section 76-5-308 and any human being whom the person engages in
81 smuggling is:

- 82 (a) a child; and
- 83 (b) not accompanied by a family member who is 18 years of age or older.
- 84 (3) (a) Aggravated human trafficking is a first degree felony, except that a human
85 trafficking violation of Subsection (1)(a) is a capital felony if the victim is 17 years old or
86 younger.

87 (b) Aggravated human smuggling is a second degree felony.

88 (c) Aggravated human trafficking and aggravated human smuggling are each a separate
89 offense from any other crime committed in relationship to the commission of either of these

90 offenses.

Legislative Review Note
Office of Legislative Research and General Counsel