

ASSAULT AND THREAT OF VIOLENCE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding the offense of assault.

Highlighted Provisions:

This bill:

- ▶ modifies the offense of assault against certain persons to include a threat of violence; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 76-5-102.3**, as enacted by Laws of Utah 1992, Chapter 163
- 76-5-102.4**, as last amended by Laws of Utah 2014, Chapter 189
- 76-5-102.7**, as last amended by Laws of Utah 2016, Chapter 339

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

Section 1. Section **76-5-102.3** is amended to read:

76-5-102.3. Assault against school employees.



28 (1) Any person who ~~[assaults]~~ commits an assault as defined in Section 76-5-102, or
29 commits a threat of violence as defined in Section 76-5-107, against an employee of a public or
30 private school, with knowledge that the individual is an employee, and when the employee is
31 acting within the scope of his authority as an employee, is guilty of a class A misdemeanor.

32 (2) As used in this section, "employee" includes a volunteer.

33 Section 2. Section 76-5-102.4 is amended to read:

34 **76-5-102.4. Assault against peace officer or a military servicemember in uniform**
35 **-- Penalties.**

36 (1) As used in this section:

37 (a) "Assault" means the same as that term is defined in Section 76-5-102.

38 ~~[(a)]~~ (b) "Military servicemember in uniform" means:

39 (i) a member of any branch of the United States military who is wearing a uniform as
40 authorized by the member's branch of service; or

41 (ii) a member of the National Guard serving as provided in Section 39-1-5 or 39-1-9.

42 ~~[(b)]~~ (c) "Peace officer" means a law enforcement officer certified under Section
43 53-13-103.

44 (d) "Threat of violence" means the same as that term is defined in Section 76-5-107.

45 (2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3)
46 and (4), who:

47 (a) ~~[assaults]~~ commits an assault or threat of violence against a peace officer, with
48 knowledge that the person is a peace officer, and when the peace officer is acting within the
49 scope of authority as a peace officer; or

50 (b) ~~[assaults]~~ commits an assault or threat of violence against a military servicemember
51 in uniform when that servicemember is on orders and acting within the scope of authority
52 granted to the military servicemember in uniform.

53 (3) A person who violates Subsection (2) is guilty of a third degree felony if the
54 person:

55 (a) has been previously convicted of a class A misdemeanor or a felony violation of
56 this section; or

57 (b) the person causes substantial bodily injury.

58 (4) A person who violates Subsection (2) is guilty of a second degree felony if the

59 person uses:

60 (a) a dangerous weapon as defined in Section [76-1-601](#); or

61 (b) other means or force likely to produce death or serious bodily injury.

62 (5) A person who violates this section shall serve, in jail or another correctional
63 facility, a minimum of:

64 (a) 90 consecutive days for a second offense; and

65 (b) 180 consecutive days for each subsequent offense.

66 (6) The court may suspend the imposition or execution of the sentence required under
67 Subsection (5) if the court finds that the interests of justice would be best served by the
68 suspension and the court makes specific findings concerning the disposition on the record.

69 (7) This section does not affect or limit any individual's constitutional right to the
70 lawful expression of free speech, the right of assembly, or any other recognized rights secured
71 by the Constitution or laws of Utah or by the Constitution or laws of the United States.

72 Section 3. Section [76-5-102.7](#) is amended to read:

73 **[76-5-102.7. Assault against health care provider and emergency medical service](#)**
74 **[worker -- Penalty.](#)**

75 (1) A person who ~~[assaults]~~ commits an assault or threat of violence against a health
76 care provider or emergency medical service worker is guilty of a class A misdemeanor if:

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

78 (b) the person knew that the victim was a health care provider or emergency medical
79 service worker; and

80 (c) the health care provider or emergency medical service worker was performing
81 emergency or life saving duties within the scope of his or her authority at the time of the
82 assault.

83 (2) A person who violates Subsection (1) is guilty of a third degree felony if the
84 person:

85 (a) causes substantial bodily injury, as defined in Section [76-1-601](#); and

86 (b) acts intentionally or knowingly.

87 (3) As used in this section:

88 (a) "Assault" means the same as that term is defined in Section [76-5-102](#).

89 ~~[(a)]~~ (b) "Emergency medical service worker" means a person certified under Section

90 [26-8a-302](#).

91 ~~(b)~~ (c) "Health care provider" means the same as that term is defined in Section

92 [78B-3-403](#).

93 (d) "Threat of violence" means the same as that term is defined in Section [76-5-107](#).

Legislative Review Note
Office of Legislative Research and General Counsel