

SOLICITATION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Sandra Hollins

LONG TITLE

General Description:

This bill modifies provisions relating to prostitution and penalties relating to sexual solicitation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that an individual is guilty of patronizing a prostitute, aiding prostitution, or exploiting prostitution if the individual believed the other individual to be a prostitute;
- ▶ modifies the penalty for sexual solicitation; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-1301, as last amended by Laws of Utah 2017, Chapter 433

76-10-1303, as last amended by Laws of Utah 2017, Chapter 433

76-10-1304, as last amended by Laws of Utah 2017, Chapter 433

76-10-1305, as last amended by Laws of Utah 2017, Chapter 433

76-10-1313, as last amended by Laws of Utah 2017, Chapter 433

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31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **76-10-1301** is amended to read:33 **76-10-1301. Definitions.**34 [~~For the purposes of this part:~~]35 As used in this part:36 (1) "Child" is [~~a person~~] an individual younger than 18 years of age.37 (2) "Inmate" means [~~a person~~] an individual who engages in prostitution in or through
38 the agency of a place of prostitution.39 (3) "Place of prostitution" means a place or business where prostitution or promotion
40 of prostitution is arranged, regularly carried on, or attempted by one or more [~~persons~~]
41 individuals under the control, management, or supervision of another.42 (4) "Prostitute" means an individual engaged in the activities described in Subsection
43 76-10-1302(1).44 [~~(4)~~] (5) "Public place" means any place to which the public or any substantial group of
45 the public has access.46 [~~(5)~~] (6) "Sexual activity" means, regardless of the gender of either participant:47 (a) acts of masturbation, sexual intercourse, or any sexual act involving the genitals of
48 one [~~person~~] individual and the mouth or anus of another [~~person~~] individual; or49 (b) touching the genitals, female breast, or anus of one [~~person~~] individual with any
50 other body part of another [~~person~~] individual with the intent to sexually arouse or gratify
51 either [~~person~~] individual.52 Section 2. Section **76-10-1303** is amended to read:53 **76-10-1303. Patronizing a prostitute.**54 (1) [~~A person~~] An individual is guilty of patronizing a prostitute when the [~~person~~]
55 individual:56 (a) pays or offers or agrees to pay [~~another person~~] a prostitute, or an individual
57 the actor believes to be a prostitute, a fee, or the functional equivalent of a fee, for the purpose

58 of engaging in an act of sexual activity; or

59 (b) enters or remains in a place of prostitution for the purpose of engaging in sexual
60 activity.

61 (2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection
62 (3), (4), or (5) and Section 76-10-1309.

63 (3) A violation of this section that is preceded by a conviction under this section or a
64 conviction under local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

65 (4) A third violation of this section or a local ordinance adopted under Section
66 76-10-1307 is a third degree felony.

67 (5) If the patronizing of a prostitute under Subsection (1)(a) involves a child as the
68 other [person] individual, a violation of Subsection (1)(a) is a third degree felony.

69 (6) Upon a conviction for a violation of this section, the court shall order the maximum
70 fine amount and may not waive or suspend the fine.

71 Section 3. Section 76-10-1304 is amended to read:

72 **76-10-1304. Aiding prostitution.**

73 (1) ~~[A person]~~ An individual is guilty of aiding prostitution if the [person] individual:

74 (a) (i) solicits ~~[a person]~~ an individual to patronize a prostitute, or to patronize an
75 individual the actor believes to be a prostitute;

76 (ii) procures or attempts to procure a prostitute, or an individual the actor believes to
77 be a prostitute, for a patron; ~~[or]~~

78 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
79 association with another, to be used for prostitution or the promotion of prostitution; or

80 (iv) provides any service or commits any act that enables another [person] individual to
81 commit a violation of this Subsection (1)(a) or facilitates another [person's] individual's ability
82 to commit any violation of this Subsection (1)(a); or

83 (b) solicits, receives, or agrees to receive any benefit for committing any of the acts
84 prohibited by Subsection (1)(a).

85 (2) Aiding prostitution is a class A misdemeanor~~[. However, a person]~~, except as

86 provided in Subsection (3).

87 (3) An individual who is convicted a second time, and on all subsequent convictions,
88 under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is
89 guilty of a third degree felony.

90 ~~(3)~~ (4) Upon a conviction for a violation of this section, the court shall order the
91 maximum fine amount and may not waive or suspend the fine.

92 Section 4. Section 76-10-1305 is amended to read:

93 **76-10-1305. Exploiting prostitution.**

94 (1) ~~[A person]~~ An individual is guilty of exploiting prostitution if the ~~[person]~~
95 individual:

96 (a) procures ~~[a person]~~ an individual for a place of prostitution;

97 (b) encourages, induces, or otherwise purposely causes another to become or remain a
98 prostitute;

99 (c) transports ~~[a person]~~ an individual into or within this state with a purpose to
100 promote that ~~[person's]~~ individual's engaging in prostitution or procuring or paying for
101 transportation with that purpose;

102 (d) not being a child or legal dependent of a prostitute, shares the proceeds of
103 prostitution with a prostitute, or an individual the actor believes to be a prostitute, pursuant to
104 their understanding that ~~[he]~~ the actor is to share therein; or

105 (e) owns, controls, manages, supervises, or otherwise keeps, alone or in association
106 with another, a place of prostitution or a business where prostitution occurs or is arranged,
107 encouraged, supported, or promoted.

108 (2) Exploiting prostitution is a felony of the third degree.

109 (3) Upon a conviction for a violation of this section, the court shall order the maximum
110 fine amount and may not waive or suspend the fine.

111 Section 5. Section 76-10-1313 is amended to read:

112 **76-10-1313. Sexual solicitation -- Penalty.**

113 (1) ~~[A person]~~ An individual is guilty of sexual solicitation when the ~~[person]~~

114 individual:

115 (a) offers or agrees to commit any sexual activity with another [~~person~~] individual for a
 116 fee, or the functional equivalent of a fee;

117 (b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another
 118 [~~person~~] individual to commit any sexual activity; or

119 (c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee
 120 or to pay another [~~person~~] individual to commit any sexual activity for a fee or the functional
 121 equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to
 122 engage in any of the following acts:

123 (i) exposure of [~~a person's~~] an individual's genitals, the buttocks, the anus, the pubic
 124 area, or the female breast below the top of the areola;

125 (ii) masturbation;

126 (iii) touching of [~~a person's~~] an individual's genitals, the buttocks, the anus, the pubic
 127 area, or the female breast; or

128 (iv) any act of lewdness.

129 (2) An intent to engage in sexual activity for a fee may be inferred from [~~a person's~~] an
 130 individual's engaging in, offering or agreeing to engage in, or requesting or directing another to
 131 engage in any of the acts described in Subsection (1)(c) under the totality of the existing
 132 circumstances.

133 (3) (a) Sexual solicitation is a class [B] A misdemeanor, except under Subsection
 134 [~~(3)(b)~~] (4).

135 (b) [~~Any person~~] An individual who is convicted a second [~~or subsequent~~] time under
 136 this section or under a local ordinance adopted in compliance with Section 76-10-1307[;] is
 137 guilty of a class A misdemeanor, except as provided in Section 76-10-1309.

138 (4) An individual who is convicted a third time under this section or a local ordinance
 139 adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

140 [~~(4) If a person~~]

141 (5) If an individual commits an act of sexual solicitation and the [~~person~~] individual

142 solicited is a child, the offense is a third degree felony if the solicitation does not amount to
143 human trafficking or human smuggling, a violation of Section 76-5-308, or aggravated human
144 trafficking or aggravated human smuggling, a violation of Section 76-5-310.