

**Senator Karen Mayne** proposes the following substitute bill:

**PRISONER OFFENSE AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Mayne**

House Sponsor: Lee B. Perry

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to an offense committed by a prison inmate.

**Highlighted Provisions:**

This bill:

► modifies the list of offenses that qualify a prison inmate serving a sentence for a capital or first degree felony to be sentenced to life in prison without the possibility of parole; and

► makes conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-3-203.6**, as last amended by Laws of Utah 2016, Chapter 277

**76-5-103.5**, as last amended by Laws of Utah 2006, Chapter 102

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

**1st Sub. S.B. 32**



26 Section 1. Section 76-3-203.6 is amended to read:

27 **76-3-203.6. Enhanced penalty for certain offenses committed by prisoner.**

28 (1) As used in this section, "serving a sentence" means a prisoner is sentenced and  
29 committed to the custody of the Department of Corrections, the sentence has not been  
30 terminated or voided, and the prisoner:

31 (a) has not been paroled; or

32 (b) is in custody after arrest for a parole violation.

33 (2) If ~~it~~ **the trier of fact finds beyond a reasonable doubt that** ~~it~~ a prisoner  
33a serving a  
34 sentence for a capital felony or a first degree felony commits any offense listed in Subsection  
35 (5), the offense is a first degree felony and the court shall sentence the defendant to life in  
36 prison without parole.

37 (3) Notwithstanding Subsection (2), the court may sentence the defendant to an  
38 indeterminate prison term of not less than 20 years and that may be for life if the court finds  
39 that the interests of justice would best be served and states the specific circumstances justifying  
40 the disposition on the record.

41 (4) Subsection (2) does not apply if the prisoner is younger than 18 years of age at the  
42 time the offense listed in Subsection (5) is committed and is sentenced on or after May 10,  
43 2016.

44 (5) Offenses referred to in Subsection (2) are:

45 (a) ~~[aggravated assault, Section 76-5-103]~~ aggravated assault by a prisoner, Section  
46 76-5-103.5;

47 (b) mayhem, Section 76-5-105;

48 (c) attempted murder, Section 76-5-203;

49 (d) kidnapping, Section 76-5-301;

50 (e) child kidnapping, Section 76-5-301.1;

51 (f) aggravated kidnapping, Section 76-5-302;

52 (g) rape, Section 76-5-402;

53 (h) rape of a child, Section 76-5-402.1;

54 (i) object rape, Section 76-5-402.2;

55 (j) object rape of a child, Section 76-5-402.3;

56 (k) forcible sodomy, Section 76-5-403;

- 57 (l) sodomy on a child, Section 76-5-403.1;
- 58 (m) aggravated sexual abuse of a child, Section 76-5-404.1;
- 59 (n) aggravated sexual assault, Section 76-5-405;
- 60 (o) aggravated arson, Section 76-6-103;
- 61 (p) aggravated burglary, Section 76-6-203; and
- 62 (q) aggravated robbery, Section 76-6-302.
- 63 (6) The sentencing enhancement described in this section does not apply if:
- 64 (a) the offense for which the person is being sentenced is:
- 65 (i) a grievous sexual offense;
- 66 (ii) child kidnapping, Section 76-5-301.1; or
- 67 (iii) aggravated kidnapping, Section 76-5-302; and
- 68 (b) applying the sentencing enhancement provided for in this section would result in a
- 69 lower maximum penalty than the penalty provided for under the section that describes the
- 70 offense for which the person is being sentenced.

71 Section 2. Section 76-5-103.5 is amended to read:

72 **76-5-103.5. Aggravated assault by prisoner.**

73 Any prisoner who commits aggravated assault [~~not amounting to a violation of Section~~  
74 ~~76-3-203.6~~] is guilty of:

- 75 (1) a second degree felony if no serious bodily injury was intentionally caused; or
- 76 (2) a first degree felony if serious bodily injury was intentionally caused.