

UNLAWFUL KISSING OF A MINOR

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to what qualifies as sexual abuse of a child.

Highlighted Provisions:

This bill:

- ▶ adds forcibly kissing a child to the list of actions that may qualify as sexual abuse of a child; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-404.1, as last amended by Laws of Utah 2022, Chapter 181

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

Section 1. Section **76-5-404.1** is amended to read:

76-5-404.1. Sexual abuse of a child -- Penalties -- Limitations.

(1) (a) As used in this section:

- (i) "Adult" means an individual 18 years old or older.



- 28 (ii) "Child" means an individual younger than 14 years old.
- 29 (iii) "Indecent liberties" means the same as that term is defined in Section [76-5-401.1](#).
- 30 (iv) "Position of special trust" means:
- 31 (A) an adoptive parent;
- 32 (B) an athletic manager who is an adult;
- 33 (C) an aunt;
- 34 (D) a babysitter;
- 35 (E) a coach;
- 36 (F) a cohabitant of a parent if the cohabitant is an adult;
- 37 (G) a counselor;
- 38 (H) a doctor or physician;
- 39 (I) an employer;
- 40 (J) a foster parent;
- 41 (K) a grandparent;
- 42 (L) a legal guardian;
- 43 (M) a natural parent;
- 44 (N) a recreational leader who is an adult;
- 45 (O) a religious leader;
- 46 (P) a sibling or a stepsibling who is an adult;
- 47 (Q) a scout leader who is an adult;
- 48 (R) a stepparent;
- 49 (S) a teacher or any other individual employed by or volunteering at a public or private
- 50 elementary school or secondary school, and who is 18 years old or older;
- 51 (T) an instructor, professor, or teaching assistant at a public or private institution of
- 52 higher education;
- 53 (U) an uncle;
- 54 (V) a youth leader who is an adult; or
- 55 (W) any individual in a position of authority, other than those individuals listed in
- 56 Subsections (1)(a)(iv)(A) through (V), which enables the individual to exercise undue
- 57 influence over the child.
- 58 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

59 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
60 actor commits sexual abuse of a child if the actor:

61 (i) (A) touches the anus, buttocks, pubic area, or genitalia of any child;

62 (B) touches the breast of a female child;

63 (C) forcibly kisses a child; or

64 [~~C~~] (D) otherwise takes indecent liberties with a child; and

65 (ii) the actor's conduct is with intent to:

66 (A) cause substantial emotional or bodily pain to any individual; or

67 (B) to arouse or gratify the sexual desire of any individual.

68 (b) Any touching, even if accomplished through clothing, is sufficient to constitute the
69 relevant element of a violation of Subsection (2)(a).

70 (3) A violation of Subsection (2) is a second degree felony.

71 (4) The offenses referred to in Subsection (2)(a) are:

72 (a) rape of a child, in violation of Section [76-5-402.1](#);

73 (b) object rape of a child, in violation of Section [76-5-402.3](#);

74 (c) sodomy on a child, in violation of Section [76-5-403.1](#); or

75 (d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

76 (5) Imprisonment under this section is mandatory in accordance with Section [76-3-406](#).